

Poland's non-proliferation policy

Documents

POLAND'S NON-PROLIFERATION POLICY

Documents

MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF POLAND
WARSAW 2005

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Ministry of Foreign Affairs
Warsaw 2005

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00-193 Warszawa
tel./fax: (+48 22) 635 99 37

ISBN 83-7452-000-0

Republic of Poland
Ministry of Foreign Affairs

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Editor's Note

Weapons of Mass Destruction-related materials, technologies, means of delivery and expertise are more accessible today than ever before. Globalization and liberalization of trade also give better possibilities for countries or non-state actors to seek Weapons of Mass Destruction (WMD). The threat of terrorist attacks, involving use of these types of weapons is growing.

United Nation's Security Council Resolution 1540 of 28 April 2004 is a new and crucial internationally binding legal instrument for combating proliferation of WMD, their means of production and delivery.

The Resolution expresses "grave concern because of the threat resulting from illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials". The Resolution:

- calls "all States to refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use WMD";
- defines general principles and effective measures to prevent the proliferation of nuclear, chemical and biological weapons as well as their means of delivery;
- promotes a world-wide awareness of the danger posed by WMD and develops practical responses;
- gives an impetus to a more dynamic and proactive approach to prevent proliferation of WMD, their means of delivery and related technologies;
- offers a solid basis for further accommodation and broader involvement of all non-proliferation mechanisms in fight against proliferation of WMD;
- requires States to take all necessary steps to adopt and enforce appropriate internal regulations against traffickers.

The effective implementation of the Resolution 1540 requires a co-ordinated approach from all the UN members; involvement and support of international

bodies, drawing on all the legal and operational instruments at their disposal; enhances legal, diplomatic and administrative tools at disposal to work against proliferation of WMD and their means of delivery.

Poland supports the strengthening of the multilateral disarmament and non-proliferation regime through the effective implementation and verification of WMD related treaties, strengthening the export control regimes, and maintaining national export control and enforcement tools. Poland takes an active stance to develop them into effective tools to stop proliferation of WMD.

Active promotion and implementation of UNSC Resolution 1540 and participation in the non-proliferation and disarmament efforts reaffirm Poland's conviction that a multilateralist approach to security, including non-proliferation and disarmament, is the best approach to maintain international order.

Given the common recognition that proliferation of WMD and means of their delivery is a growing threat to international peace and security, the United Nations shall seek the ways and means of fostering the implementation of UNSC Resolution 1540.

The UN "High-Level Panel on Threats, Challenge and Change" recognized a need to take active measures against proliferation of Weapons of Mass Destruction. This report coincides with the relevant proposals included in the draft of a New Political Act for the United Nations, put forward by the Foreign Minister of Poland. Both documents favor the strengthening of the United Nations, which shall lead to enhancement of its capacities in dealing with threats of the proliferation of WMD and their means of delivery.

The purpose of this publication is to promote the knowledge and experience of Poland's involvement in the non-proliferation efforts, as part of its security policy.

The volume contains a Polish National Report on the Implementation of the UNSC Resolution 1540, which covers all Poland's activities in the sphere of WMD non-proliferation and refers to obligations stemming from the Resolution. The Report is a visible confirmation that Poland actively implements the provisions of the Resolution.

The volume also presents documents on Poland's legal and administrative framework for non-proliferation of WMD and anti-terrorist activities.

Warsaw, January 2005

Ministry of Foreign Affairs
Security Policy Department

II. REPORT OF THE POLAND ON THE IMPLEMENTATION OF THE UNSC 1540 (2004) RESOLUTION

1) Introduction

Poland has applauded the adoption of United Nations Security Council Resolution 1540 (2004). The Resolution states that proliferation of nuclear, chemical, and biological weapons, as well as their means of delivery constitutes a threat to international peace and security. Terrorism and illicit trafficking add new dimensions to this threat. The Resolution identifies additional steps that states should take to counter these threats. Poland is determined to meet its obligations under this Resolution and is prepared to assist other states in doing the same. Poland has undertaken actions, where necessary, to strengthen and enforce effective laws to prohibit the manufacture, acquisition, possession, development, transport, or transfer of weapons of mass destruction (WMD) by non-state actors. In addition, by implementing the European Union Strategy against Proliferation of Weapons of Mass Destruction and its Action Plan, Poland has further supported the full implementation of the UNSC Resolution 1540 (2004). Poland will also continue to enforce domestic controls to prevent proliferation, including physical protection, border, and export, and transshipment controls.

The Resolution highlights the need for the international community to take active international and national measures against the proliferation of WMD. Given the impact that the Resolution has on all member states of the United Nations, Poland will strive to promote implementation and compliance with this Resolution by all UN Member States.

Universal implementation of UNSC Resolution 1540 (2004), which relates both to non-proliferation and disarmament, will strengthen the role of the United Nations Security Council. Active promotion of the Resolution reaffirms Poland's commitment to a multilateral approach to security, including non-proliferation, as the best way to maintain international peace and order. The effective implementation and universal support for the UNSC Resolution 1540 (2004) will enhance the role of United Nations

in countering threats of the proliferation of weapons of mass destruction and means of delivery. Therefore, within the United Nations system, its organs and bodies we shall also seek the ways and means of fostering the Resolution. As Minister of Foreign Affairs of Poland, Włodzimierz Cimoszewicz, stated at the recent session of the United Nations General Assembly: "...The Republic of Poland has voiced, on numerous occasions, its deepest conviction that we have to do a comprehensive, strategic review of the role of the United Nations, in its both normative and institutional aspects. It was with this in mind that, on behalf of the Republic of Poland, I had the privilege to put forward two years ago the idea of a New Political Act for the United Nations....". Given the common recognition that proliferation of weapons of mass destruction and means of their delivery is a growing threat to international peace and security, promotion of and support for implementation of the UNSC Resolution 1540 (2004), shall constitute an important element in revitalising the role and structures of the United Nations. This would reassure members of the United Nations that the eminent dangers of proliferation of weapons of mass destruction will be addressed in a transparent and co-operative manner.

Poland will aim at fostering the role of the UN Security Council and UNSC Resolution 1540 (2004). Poland's actions will include political and diplomatic activities in support of the full and timely implementation of the Resolution. Poland is ready to host, by the end of 2005, an international conference on the Resolution. The conference aims shall include promoting dialogue and co-operation on non-proliferation and providing overall support to UNSCR 1540 (2004) implementation.

2) Poland's activity in the areas related to the Resolution

The increasing danger that terrorists can obtain

weapons of mass destruction has reinforced concerns over growing proliferation of weapons of mass destruction. It constitutes a serious threat to international peace and security and can seriously undermine non-proliferation and arms control efforts. It is, therefore, important to build upon and strengthen existing non-proliferation treaties and arrangements. Poland is a party or member of all treaties and arrangements in the sphere of non-proliferation, including Non-Proliferation Treaty, Comprehensive Test Ban Treaty, Biological and Toxin Weapons Convention, and Chemical Weapons Convention. These multilateral treaties are completed by a number of agreements between those countries which are able to supply technology required for the development of nuclear, chemical or biological weapons and means of their delivery.

In addition, Poland actively participates in new initiatives aimed at preventing proliferation of WMD, namely Proliferation Security Initiative, known also as the Cracow Initiative (announced in Krakow, Poland, on 31 May 2003), Global Partnership against the Proliferation of Weapons of Mass Destruction (2002) and The Hague Code of Conduct against the Proliferation of Ballistic Missiles (2002)

The new international environment allows for global access to technologies, information and expertise that can be used both to development and deployment of nuclear, chemical or biological weapons and ballistic missiles, and we therefore require a global approach and consistent implementation of credible export controls.

Within the multilateral non-proliferation efforts there is therefore a global move towards more controls of exports of arms and technologies and expertise in weapons of mass destruction and means of their delivery.

The national export controls providing for both appropriate legislation and mechanism enforcing its implementation make an important contribution to non-proliferation efforts. They constitute a key condition of upholding legal obligations of States undertaken in the global and multilateral non-proliferation regimes not to assist anyone in developing weapons of mass destruction.

Poland has introduced an effective national system of export controls of technology and expertise required for the development and manufacture of nuclear, chemical or biological weapons or unmanned delivery systems. We also co-operate closely with our partners within exports control

regimes and through bilateral contacts with other States to extend and promote measures to reduce access to technology and expertise in weapons of mass destruction and means of their delivery.

Poland continues to play its role in promoting thorough and effective implementation of obligations contracted under global disarmament and non-proliferation treaties and international arrangements.

International non-proliferation agreements ratified by Poland:

1. Protocol for the prohibition of the use in war of asphyxiating, poisonous or other gases, and of bacteriological methods of warfare (Geneva Protocol)
2. Treaty banning nuclear weapons tests in the atmosphere, in outer space and under water (Partial Test Ban Treaty, PTBT)
3. Treaty on the non-proliferation of nuclear weapons (NPT)

Note: Poland also ratified Additional Protocol to the Agreement on Safeguards with the IAEA

Ratified: 5.05.2000

4. Treaty on the prohibition of the emplacement of nuclear weapons and other weapons of mass destruction on the seabed and the ocean floor and in the subsoil thereof (Seabed Treaty)
5. Convention on the prohibition of the development, production and stockpiling of bacteriological (biological) and toxin weapons and on their destruction (BWC)
6. Convention on the physical protection of nuclear material
7. Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (Chemical Weapons Convention, CWC)
8. Comprehensive Nuclear-Test-Ban Treaty (CTBT)

Poland is also a member of the following export control regimes:

- 1) Zangger Committee
- 2) Nuclear Suppliers Group
- 3) Australia Group
- 4) Missile Technology Control Regime (MTCR)
- 5) Wassenaar Arrangement

Poland actively participates in new initiatives aimed at preventing proliferation of WMD:

- 1) Hague Code of Conduct against the Proliferation of Ballistic Missiles (2002)
- 2) Proliferation Security Initiative, (known also as the Cracow Initiative, announced in Cracow, Poland, on 31 May 2003)
- 3) Global Partnership against the Proliferation of Weapons of Mass Destruction (2002)

Poland in the Cracow Initiative

Poland considers the Cracow Initiative (CI) - Proliferation Security Initiative as an important element in building an effective mechanism to prevent and counter-proliferation of Weapons of Mass Destruction, their means of production and delivery. The Initiative serves as an action-oriented tool in accommodating non-proliferation mechanisms and structures to new security threats and challenges. Poland will continue its active engagement in the development and implementation of CI. Our priorities include, *inter alia*:

- 1) Promoting regional implementation of the Initiative goals, conducting bilateral meetings and co-organizing exercises in 2005, including a maritime exercise in the Baltic Sea and a ground exercise.
- 2) Furthering and promoting the results of the First Anniversary PSI Meeting in Cracow, by publishing a booklet and a CD-Rom with a collection of speeches presented during that event.
- 3) Developing internal mechanism of effective implementation of the Initiative, through the improvement of inter-agency mechanism of cooperation;
- 4) Building on bilateral relations on interdiction with interested states at the operational level.

First Anniversary Proliferation Security Initiative Meeting

The Meeting was held in Krakow on 31 May - 1 June 2004 with participation of 61 countries and representatives from the EU and NATO. It was agreed that the Proliferation Security Initiative would also be known as the Cracow Initiative.

The Meeting presented the PSI as a global initiative, which develops and receives strong international support. All participants confirmed their will to support the objectives of the PSI and to act in accordance with their national laws and UNSC Resolution 1540.

The Chairman's Statement from the Meeting stressed that since its launch a year ago the Proliferation Security Initiative has been transformed from a vision into an active network of partnership and practical cooperation. Common principles have been defined, interdiction capabilities developed and tested, and regional activities undertaken. The Statement reminded that the PSI builds on efforts by the international community to prevent the proliferation of WMD, their delivery systems or related materials and complements existing treaties and regimes. It is consistent with newly adopted United Nations Security Council Resolution 1540 (2004) of 28 April 2004. The Resolution states that the Council is *"gravely concerned by the threat of illicit trafficking in nuclear, chemical or biological weapons and their means of delivery, and related materials"*. It calls upon all states *"to take co-operative actions to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials"*.

With an aim to promote and implement the Initiative's provisions Poland has also hosted a regional conference for the countries of Central and Eastern Europe (January 2004) and organised a first ground interdiction exercise in Wroclaw (April 2004).

Poland's participation in the Global Partnership against the Spread of Weapons and Materials of Mass Destruction

In the Initiative on Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, approved by the G-8 leaders during Kananaskis Summit, on June 27th, 2002 it was decided to support specific co-operation projects, initially in Russia, to address non-proliferation, disarmament, counter-terrorism and nuclear safety issues. The Government of Poland expressed readiness to join this Initiative. Subsequently, Poland was formally invited to the Global Partnership at the G-8 Summit in Evian, in June 2003.

Two Polish projects were included into the frameworks of Global Partnership:

- The Agreement between the Government of the Republic of Poland and the Government of the Russian Federation on co-operation in the field of chemical weapons destruction;
- The concept of the Polish-Russian Technological and Industrial Park in Tarnow, Poland.

Poland in MTCR

During the chairmanship of the Missile Technology Control Regime (MTCR) in the years 2002-2003, Poland undertook intensive efforts aimed at the promotion of non-proliferation of missiles and related technologies as well as dual use goods and systems restricted by this regime.

In the framework of the outreach activities, the Chair carried out visits to the Democratic People's Republic of Korea, Israel, Cyprus, Bulgaria, Pakistan, Romania, Slovakia, Slovenia, and conducted two rounds of talks with representatives of the government of the People's Republic of China. The Chair presented the basic purpose of the MTCR and elaborated upon the implementation of export licenses, end-user undertakings, inter-partner trade and national space programs. The Chair also stressed the importance of voluntary transposition of the Guidelines and the Technical Annex by non-members to national legislation.

Several visits were paid to countries which have applied for MTCR membership. Their main goal was to verify the level of preparations of these states for possible accession to the MTCR. In general terms, the Chair advised the hosts about the membership criteria and procedures, discussed issues of proliferation of missiles and related technology, transit, transshipment, brokering and adherence to the MTCR Guidelines and Technical Annex. During his meetings, the Chair highlighted the goals and priorities of the MTCR: strengthening the work on regional non-proliferation; enhancing outreach activities; consultations with non-member states on ballistic missile issues; enlargement; strengthening the implementation and enforcement of Guidelines and the Technical Annex into national export control systems; use of MTCR as a tool to combat terrorism.

Poland as the sponsor of UN Resolution on the implementation of Chemical Weapons Convention

Poland remains a sole sponsor of the UN Resolution on the implementation of the Chemical Weapons Convention. The Resolution supports and promotes CWC objectives and purposes as well as its full and effective implementation.

The Resolution stresses that the full and effective implementation of all provisions of the Convention

is in itself an important contribution to the efforts of the United Nations in the global fight against terrorism in all its forms and manifestations.

At the same time, the Resolution underlines that the Convention and its implementation contribute to enhancing international peace and security. It emphasizes that full, universal and effective implementation of the Convention will contribute further to that purpose by excluding completely, for the sake of all humankind, the possibility of the use of chemical weapons. It urges all States parties to the Convention to meet in full and on time their obligations under the Convention and to support the Organisation for the Prohibition of Chemical Weapons in its implementation activities.

3) European Union context of Poland's non-proliferation policy

Since 1 May 2004, Republic of Poland is a member of the European Union. Therefore, the EU Report on implementation of the Resolution complements the present Report.

Poland actively participated in the process of preparing the EU Strategy against the proliferation of WMD and the Action Plan for its implementation. Now, Poland supports full and comprehensive implementation both of the Strategy and Action Plan.

The main areas of Poland's engagement in realisation of the EU provisions against proliferation are:

- promoting universalization of international non-proliferation treaties;
- supporting the EU non-proliferation clause in bilateral contacts with third countries;
- encouraging other states to give their national input for the development and implementation of provisions of such international instruments like the Krakow Initiative (PSI) and G8 Global Partnership;
- promoting EU regulations on export controls in this regard among partners in the region.

Active measures by the EU (taking active stand on various forums, elaborating different Plans of Action, demarches on universalization, programmes of assistance etc.) are, in the view of Poland, an excellent tool for the development of strong and unanimous policy in Europe addressing non-proliferation threats. Poland's membership in the European Union has

prompted modifications of legal regulations, mechanisms and procedures relevant to its external trade in armaments and military equipment, as well as dual-use goods and technologies.

Present export controls regulations in Poland are based on the European Council Regulation No. 1334/2000. The same document remains a basis for appropriate parts of the Customs Code.

4) Poland's legislative and administrative measures in the areas related to the Resolution

a. Legislation related to WMD

General legal acts

General provisions related to the activities prohibited under international law, including penalties for the use, production, acquiring, selling, storage and transport of weapons of mass destruction are envisaged by the Penal Code of 6 June 1997 (Journal of Laws of the Republic of Poland of 1997, No. 88, item 553). Text of the relevant provisions:

"Chapter XVI. Crimes against peace, humanity and war crimes

Art. 120. A person, who uses the weapon of mass destruction prohibited by international law, shall be sentenced to imprisonment for the time not shorter than 10 years, for 25 years or for life.

Art. 121. 1. A person, who in contradiction to the prohibitions of the international law or provisions of law (statute), manufactures, collects, acquires, sells, stores, transports or transmits the weapons of mass destruction or develops them with the view to their manufacturing or use, shall be sentenced to imprisonment for 1 year up to 10 years.

2. The same penalty shall be applicable to a person, who allows the commitment of the act referred to in paragraph 1."

Detailed procedures with respect to export control of weapons of mass destruction, related materials and technologies are covered by the Law on external trade in goods, technologies and services of strategic importance for the state security and for the maintenance of international peace and security, adopted on 29 November 2000, with amendments adopted on 2 July 2004.

Polish governmental agencies' legal competences on interdiction of WMD and related materials to States and non-States actors, including terrorists

The powers of the bodies

The Internal Security Agency (Agencja Bezpieczeństwa Wewnętrznego, ABW), the Foreign Intelligence Agency (Agencja Wywiadu, AW), the Border Guard (Straż Graniczna), the Police (Policja) and the Customs Service (Służba Celna) are the bodies that are authorised to perform the activities connected with interdiction.

Internal Security Agency

According to Article 5 of The Internal Security Agency and Foreign Intelligence Agency Act of May 24, 2002, the tasks of the Internal Security Agency include identifying, preventing and detecting the crimes of illegal production, possession and trade in weapons, ammunition and explosives, weapons of mass destruction, narcotics and psychotropic agents in international trade (subparagraph 2 of the present Article)

Within the scope of their tasks, the officers of the Internal Security Agency perform (Art. 21 of the Act):

- criminal intelligence and investigation/inquiry activities in order to identify, prevent and detect crimes and pursue their perpetrators,
- criminal intelligence and analytic/informative activities in order to acquire and process information vital to the protection of state security and its constitutional order.

The Internal Security Agency officers perform the activities only within the scope of competence of the Agency and in this scope they have the powers in criminal proceedings of policemen vested in them, stemming from the provisions of the Code of Criminal Procedure.

According to the Act (art. 23), the Internal Security Agency officers are authorised to detain persons under the circumstances and in the cases defined in the provisions of the Code of Criminal Procedure, to search persons and premises, perform body checks or search through luggage and inspect cargo in the means of land, air and water transport, in case of a well-grounded suspicion that a forbidden act subject to penalty has been committed.

Foreign Intelligence Agency

Art. 6 of the above-mentioned Act elaborates on the

tasks of the Foreign Intelligence Agency, which include identifying illicit international trade in weapons, ammunition and explosives, narcotics and psychotropic agents and goods, technologies and services of strategic importance to the state's security, identifying international trade in weapons of mass destruction and the threats related to the proliferation of these weapons and their carriers.

Border Guard

According to the Act on Border Guard of October 12, 1990, its tasks include national border protection; organising and implementing the border traffic control regime; identifying, preventing and detecting crimes and petty offences as well as investigating the perpetrators, within the scope of competence of the Border Guard, in particular: crimes and petty offences concerning crossing the national border or carrying weapons and ammunition across the border, preventing the transportation across the border of nuclear and radioactive materials for which no permit obligatory under other regulations has been granted.

The Police

According to Art. 1 item 2 of the Act on Police of April 6, 1990, one of the most fundamental tasks of the Police is the detection of crimes and petty offences and the pursuit of their perpetrators, as well as performing activities stemming from international treaties and agreements, under the principles and within the scope defined in them (item 3).

In order to identify, prevent and detect crimes and petty offences, the Police perform the following activities within the scope of its duties: criminal intelligence, investigation/inquiry and administrative/order-keeping, aimed at recognising, preventing and detecting the crimes. According to Art. 15 of the Act, when performing the above-mentioned activities, the policemen have the right to, among others:

- search people and premises under the circumstances and in the cases defined in the provisions of the Code of Criminal Procedure and other acts (Art. 15 item 1 subparagraph 4),
- perform body check as well as search through luggage and inspect cargo in ports and stations, as well as in the means of land, air and water transport, in case of a well-grounded suspicion that a forbidden act subject to penalty has been committed (Art. 15 item 1 subparagraph 5).

While performing criminal intelligence activities undertaken by the Police in order to prevent, detect, identify the perpetrators, as well as acquire and preserve evidence of intentional offences prosecuted by a public prosecutor, among others illegal production, possession or trade in weapons, ammunition, explosives, narcotics or psychotropic agents or their precursors and nuclear or radioactive materials, prosecuted by virtue of international treaties and agreements.

Under certain circumstances the circuit court can administer operational control, performed by the Police (Art. 19)

Customs Service

According to the Law on Customs Service of July 24, 1999 (Journal of Law of 2004, no. 156, item 1641), the main task of the Customs Service is to ensure that importation of goods into and exportation from the European Union customs territory is in conformity with the law (Art. 1 item 1).

One of the tasks of the Customs Service is the implementation of the State customs policy within the scope of importation and exportation of goods, which includes identification, detection, combating and prevention of crimes and petty offences that relate to introducing into and removing from the European Union customs territory of goods subject to restrictions or prohibitions, in particular such as: harmful wastes, chemical substances, nuclear and radioactive materials, narcotics and psychotropic agents and weapons, ammunition, explosives and technologies subject to international control, as well as of crimes infringing on the law of protection of cultural goods and intellectual property. (Art. 1 item 2 subparagraph 5).

The performance of the activities accompanying the implementation of the above-mentioned tasks is closely linked to undertaking criminal intelligence and control activities in line with the provisions of the Customs Code and to leading the preparatory proceedings in line with the provisions of the Code of Criminal Procedure and Fiscal Penal Code.

Territorial competence

The above-mentioned Polish bodies exercise their

powers on the territory of the Republic of Poland, which encompasses the land territory, sea internal waters, territorial waters, as well as the airspace above them. With regard to sea transport, there exists a possibility, according to the United Nations Convention on the Law of the Sea of December 10, 1982, for these bodies to be able to perform their tasks also beyond the borders of the territorial sea, in the framework of the so-called hot pursuit, in the circumstances when a given sea boat left the territorial waters of the Republic of Poland, and the infringement of law is suspected.

According to the Internal Security Agency and Foreign Intelligence Agency Act, the Internal Security Agency can perform its tasks also beyond the borders of the Republic of Poland. The Foreign Intelligence Agency, which usually performs its activities beyond the borders of the State, can also exercise its powers on the territory of Poland, provided that such activities are related to its foreign activities.

Criminal liability

With regard to punishing the cases of transfer of weapons of mass destruction or their elements, Art. 121 of the Penal Code is relevant. According to it, the person producing, amassing, purchasing, selling, storing, transferring or sending the means of mass destruction or means of combat, or conducting research aiming at the production or application of such means, is liable to a penalty of imprisonment of duration between one year and ten years. A person who allows for the above-mentioned acts to be committed is liable to the same penalty.

According to the Act on foreign trade in goods, technologies, and services of strategic importance to the state's security and to the maintenance of international peace and security, and on the amendments to certain acts of November 29, 2000, the trade in the relevant goods and technologies without an appropriate permit or against the principles laid out in the permit is penalised in imprisonment of a duration of between one year and ten years (Art. 33 item 1 of the Act).

The list of goods and technologies of strategic importance is included in the Ordinance of the Minister of Economy on the list of goods of strategic importance of October 2, 2002. With regard to weapons of mass destruction, Annex no. 3 contains

the list of toxicological agents, "tear gasses", adequate equipment, components, materials and technologies (among others biological agents and radioactive materials adjusted to the use at war to cause casualties in humans and animals, damage to equipment, destruction of plots or natural environment and combat toxic means).

According to the provisions of the Act, trade consists in any transfer across the border of the Republic of Poland of goods of strategic importance, in particular through exportation, importation, transit or conclusion of the contract of leasing, donation, loan agreement, lending for use contract or company contribution, as well as the services of mediation, commercial counselling, assistance in the conclusion of contracts and participation in any form of the above-mentioned activities, including beyond the borders of the Republic of Poland.

According to the Act on Nuclear Law of November 29, 2000, unless an appropriate permit has been granted, it is prohibited to perform the activities connected with the exposure, consisting in producing, processing, storing, transporting or applying nuclear materials, radioactive sources and waste and spent nuclear fuel and the trade in them (Art. 4 item 1 subparagraph 1), as well as importation into the Polish customs territory and exportation out of the Polish customs territory of nuclear materials, radioactive sources and devices generating such sources, and the importation of products of common use emitting ionising radiation, as well as the importation and exportation of radioactive waste and spent nuclear fuel (Art. 62 item 1).

The head of an organisational unit who performs the activities defined in Art. 4 item 1 or effectuate importation or exportation mentioned in Art. 62 item 1 without a required permit or against its terms, is subject to a financial penalty of the amount not exceeding five average monthly salaries in national economy over the period of three quarters of the year preceding the perpetration of the deed, announced by the President of the Central Statistical Office on the basis of the Act on income tax of July 26, 1991.

Legislation or other measures to prohibit offences in Poland related to recruitment to terrorist groups and the supply of weapons, including WMD to terrorists

In case of measures to prohibit offences related to recruitment to terrorist groups the key provision is contained in Art. 258 of the Penal Code:

"Chapter XXXII. Crimes against public order

Art. 258. 1. A person who participates in organised group or association, which aim is to commit crimes shall be sentenced to imprisonment for up to 3 years.

2. If the group or association referred to in para. 1 is of military nature the perpetrator shall be sentenced to imprisonment for 3 months up to 5 years.

3. A person who establishes the group or association referred to in para. 1 or 2 or manages such a group or association shall be sentenced to imprisonment from 6 months up to 8 years."

Mechanisms and procedures of control of trade in strategic goods, technologies and services relevant to national security, as well as to the maintenance of international peace and security are also applicable to the issue of the supply of weapons to terrorists. Detailed information including translation of Law of 22 June 2001 on the implementation of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and their destruction and Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the maintenance of international peace and security and amending certain laws are attached to the present report.

Legislation and procedures existing in Poland for denying safe haven to terrorists active in nuclear field

Legal means and other arrangements for counteracting proliferation of weapons of mass destruction, used by the National Atomic Energy Agency:

a. Treaty on the Non-Proliferation of Nuclear Weapons ratified on 8 March 1972.

b. Agreement between Poland and the International Atomic Energy Agency for the application of Safeguards in Connection with the Treaty on the Non-proliferation of Nuclear Weapons - INFCIRC 179 (based on the IAEA INFCIRC/153) which entered into force on 11 of October 1972. This document establishes the rules for nuclear safeguards in Poland prohibiting access to nuclear materials to non-state entities.

c. Atomic Law of 29 November 2000, (Journal of Laws of 2001, No. 3 item 18), last update: Journal of Laws of 2004, No. 70 and No. 96

The Law requires that activities involving use of radioactive materials shall be licensed and requires physical protection of nuclear materials as well as safeguards procedures for their control.

d. Regulation of Council of Ministers of 27 April 2004 on Nuclear Material Safeguards (Journal of Laws of 2004, No. 98 item 982) pursuant to obligations contained in the Agreement on Safeguards between Poland and the IAEA, ratified in 1972.

The Agreement embodies main obligation under Non-proliferation Treaty concerning nuclear materials. The Regulation requires from users strict accounting for quantities and types of nuclear materials in use and admitting inspections according to requirements of the accountancy system of the International Atomic Energy Agency.

e. Regulation of Council of Ministers of 31 July 2004 on Physical Protection of Nuclear Materials (Journal of Laws of 2001, No. 90 item 997), pursuant to obligations under the Convention of Physical Protection of Nuclear Materials (open for signature in 1980 and ratified by Poland on 3.03.1989) and to requirements for a State System for physical protection of nuclear materials defined in the recommendation INFCIRC/225 rev. 4 of the International Atomic Energy Agency.

The Regulation requires that users of nuclear materials ensure their physical protection according to principles of the IAEA.

Starting 11 September 2001 more stringent procedures of physical protection have been implemented in the facilities of the Institute of Atomic Energy.

f. Additional Protocol to the Agreement on Safeguards between Poland and the IAEA - INFCIRC 179 Add.1, which was ratified on 5 May 2000 and published in Journal of Laws of 2003, No. 15

The Protocol institutes a system of declarations and inspections for entities where activities having some relevance for nuclear cycle are carried out. Declarations concern e.g. export of equipment and non-nuclear material listed in Annex II.

g. Law of 29 November 2000, as amended on 2 July

2004, on export control of trade in strategic goods and technologies. The National Atomic Energy Agency (PAA) provides opinions in the process of licensing exports regarding nuclear goods and technologies as well as dual use items of nuclear relevancy.

Poland's legislation on biological weapons non-proliferation

The Republic of Poland is a party to the Geneva Protocol of 1925 and has also ratified the 1972 Convention on the Prohibition of the Development, Production, Stockpiling of Bacteriological (Biological) and Toxin Weapons and their Destruction. Poland has always respected the relevant legal provisions, and – in consequence - has never produced or stockpiled such weapons on its territory.

Polish legislation addresses biological threats primarily in the context of management of infectious disease epidemics and poisonings, either being the result of natural causes or intentionally perpetrated by terrorist acts or military hostilities.

The following legal acts have particular significance with reference to implementation of the Convention's provisions:

The Polish criminal code incorporates penal sanctions against any persons who - in violation of international law - produce, stockpile, acquire, sell, or transport weapons of mass destruction or other means of combat, or conduct research aimed at producing or using such weapons.

a. The Law on the Customs Code of 19th March 2004 (integrated text, Journal of Laws of 2004, No. 68, item 622)

- The Law makes it possible to demand explanations and documents if doubts arise concerning the permissibility of the customs destination of the goods in question, including biological materials and toxins.

b. The Law of 29th November 2000 on foreign trade in goods, technologies and services of strategic importance for the security of the state, and also for maintenance of international peace and security (Journal of Laws No. 119, item 1250)

- The law determines the role of state organs in the

national system for strategic goods trade control, including pathogenic micro-organisms, toxins, and equipment for biotechnological processes.

- However, pursuant to the Ordinance of the Minister of Economy on goods of strategic importance of 2nd October 2002 (Journal of law No. 182, item 1518) most of the above goods are not included in the so-called "import list" and are subject to restrictions only with regard to export from the territory of the Republic of Poland and transit across the Polish territory. A list of pathogens and toxins included in the Ordinance reflects obligations adopted by Poland in the framework of the Australia Group.
- The legal regulations, rules and procedures for the organization of the transportation of pathogens and toxins are compatible with the international regulations concerning the trade in and transportation of hazardous materials, i.e. the 1957 European Agreement - adopted by the Republic of Poland - on the international transportation of hazardous goods, with subsequent amendments.
- In order to ensure effective control of possible transfers or translocations of pathogens and toxins, and to accelerate the detection of hazardous biological agents - state border sanitary inspectors have been posted at all border crossings. The organization of 16 Border Sanitary-Epidemiological Stations has also been initiated.

c. The Ordinance of the Minister of Health of 3rd July 2002 concerning characteristics cards for hazardous substances and preparations.

- The Ordinance was issued on the basis of article 5, paragraph 5 of the Law of 11th January 2001 on chemical substances and preparations (Journal of Laws No. 11, item 84, No. 100, item 1085, No. 123, item 1350 and No. 125, item 1367, and of 2002 No. 135, item 1145). The Ordinance is of a general character and can be applied to micro-organisms and biologically derived toxins.
- The cards must contain information on the threats connected with the use of the hazardous substance or hazardous preparation and instructions on their safe application. In the event of the producer, importer or distributor being based outside the territory of the Republic of Poland, identification of the person responsible for the import of the substance or preparation into the Republic of Poland must also be made in the card. This allows for control of the substance's transfer.

The above provisions have substantial significance for the implementation of Article III of the Convention.

The following legal acts are important for ensuring the security and monitoring of pathogenic micro-organisms and toxins:

a. The Ordinance of the Minister of the Environment of 29th November 2002 concerning the list of pathogenic organisms and their classification, and also the measures required for the respective degrees of containment (Journal of Laws of 16th December 2002).

- It contains a listing of pathogenic organisms and their classification in accordance with their ability to cause disease in humans, plants and animals, and also defines the measures required for the respective degrees of containment during execution of procedures in laboratories, greenhouses, animal enclosures, and other procedures during closed use of genetically modified organisms.

b. The Ordinance of the Minister of Health of 11th July 2002 (Journal of Laws No. 140, item 1173) on the marking of packaging of hazardous substances and hazardous preparations.

- The Ordinance contains specimens of warning markings, formulations defining conditions of safe use of hazardous substances (preparations) and ways of marking the packaging of such substances. The Ordinance does not refer to hazardous biological substances. Upon modification it would constitute a good basis for regulating this issue with regard to biological substances.

c. The Law ("gene law") of 22nd June 2001 (Journal of Laws No. 76, item 811, and of 2002, No. 25 item 253, No. 41. item 365)

- The Law institutes control of closed use and release into the environment of genetically modified organisms (GMO).

d. The Ordinance of the Minister of the Environment of 6th June 2002 concerning applications for permits to conduct activity involving GMOs. The Ordinance contains detailed regulations dealing with the closed use of GMOs, intended release of GMOs into the environment, trade in GMOs, their export and transit across national territory.

- These regulations primarily focus on the protection of health and environment, permitting the

penalization of prohibited forms of development, production and release into the environment of genetically modified micro-organisms. The issue of intentional development of harmful genetically modified micro-organisms for the purpose of causing harm to the health of humans, animals and plants is not directly addressed.

e. The Law of 11th May 2001 on the health requirements for food and feeding.

- On the basis of this Law, the Minister of Health determines the requirements with respect to internal control of the health quality and internal control of adherence to hygienic rules, incorporating the system of Hazard Analysis and Critical Control Point (HACCP). This system includes procedures designed to ensure the safety of food through the identification and assessment of hazards from the point of view of the health quality of food and the risk of hazards during all stages of the production and handling of food.

- The Minister of Health determines the qualifications required for persons involved in the process of production. Knowledge of production safety measures to prevent intentional biological contamination is not required yet.

f. In accordance with the Law on infectious diseases of 6th September 2001 (Journal of Laws of 2001 No. 126, item 1384) the national reference centers for microbiological and serological diagnostics are those entities which have obtained accreditation on the basis of the Law of 28th April 2000 on the system of compatibility, accreditation and amendment of certain laws (Journal of Laws No. 43, item 489, and of 2001 No. 63, item 636), and with which the Health Minister has concluded contracts. So far, the contracts do not incorporate clauses on the storage and monitoring of pathogenic micro-organisms and toxins.

g. The Ordinance of the Minister of Health of 2nd June 2003 (Journal of Laws No. 116, item 1103) on the criteria to be met by organizational units conducting tests on chemical substances and preparations, and on control of the fulfilment of those criteria.

- The Ordinance was issued on the basis of the Law of 11th January 2001 on chemical substances and preparations (Journal of Laws No. 11, item 84 with subsequent amendments)
- The Ordinance elaborates the criteria that have to be met by organizational units which conduct - as

required by the Law - tests of the physicochemical properties, toxicity and eco-toxicity of chemical substances and preparations. The criteria, contained in Attachment 1, constitute the principles of Good Laboratory Practice. The Ordinance also determines which unit is responsible for the control of adherence by the research units to the principles of Good Laboratory Practice, and the procedure for granting and withdrawing the authorization to conduct such research.

- The Ordinance needs to be amended with provisions relating to biological agents and toxins.

Despite the absence of specialist legal regulations concerning safety issues connected with pathogens and toxins, there are general regulations in force dealing with the storage and handling of hazardous materials.

National legislation on the implementation of the Chemical Weapons Convention

On 22.07.2001, the Law on the implementation of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction was enacted.

Pursuant to the provisions of the above mentioned Law, the National Authority in Poland, in the meaning of the Convention, is the Minister of Foreign Affairs. The tasks imposed under the Convention are also performed by the Ministry of Economy and Labor, the Ministry of National Defense and the Ministry of Interior and Administration Affairs. An analysis of tasks assigned to the individual ministries shows that the crucial role falls with the Ministry of Economy, Labour and Social Policy that is responsible for the supervision of implementation and enforcement of the Convention at the national level. As the National Authority, the Ministry of Foreign Affairs has the following responsibilities:

- Preparation and implementation of the Polish policy guidelines in relation to the OPCW,
- Maintenance of relationships with the OPCW and other States Parties to the Convention with regard to the matters of the Convention,
- Cooperation in preparation of the OPCW inspections in Poland,
- In cooperation with the Ministry of National Defense, providing assistance to other States Parties to the Convention in case of threat of use or the actual use of chemical weapons against them.

Responsibilities of the Ministry of Economy and Labour includes in particular:

- Monitoring of the industry and its compliance with the Convention,
- Monitoring of foreign trade in toxic chemicals listed in the Schedule 1, 2 and 3 of the Convention,
- Preparation of declarations required pursuant to the Convention,
- Taking actions to prepare and carry out the OPCW inspections on the Polish territory.

The Minister of National Defence ensures the compliance of the Polish Armed Forces with the Convention.

The Minister of Interior and Administration Affairs is responsible for enforcing the provisions of the Convention in the subordinated units.

Pursuant to the Polish law, it is forbidden on the territory of the Republic of Poland to:

- develop, produce, process, use, procure, store and transfer chemical weapons to anyone,
- use chemical weapons,
- undertake any military preparations for use of chemical weapons,
- use riot control agents as a method of warfare.

Any activity involving the chemicals included in Schedule 1 of the Convention may be conducted only for purposes not prohibited under the Convention, for allowed quantities and in accordance with the provisions of the Conventions, subject to obtaining the appropriate permission for such activity. The permission can be obtained from the Minister of Economy and Labour (for civilian area) or from the Minister of National Defense (for military area). Export, import, and transit of Schedule 1 chemicals to and from States not Parties to the Convention are prohibited, whereas to and from States Parties to the Convention are permissible only for the purpose not prohibited by the Convention and in permissible quantities, if duly licensed by the Minister of Economy and Labour.

Export, import, and transit of Schedule 2 or 3 chemicals are permitted exclusively in relation to the States Parties to the Convention subject to obtaining the license.

After the Convention of Chemical Weapons entered into force, Poland has fulfilled the following obligations under the Convention:

- Submitted the initial declaration, the declaration on past activities for the years 1997 - 2002 and on anticipated activities for the years 1998 - 2003,

- Notified the establishment of the National Authority of Poland,
- Notified the point of entry/exit for the OPCW inspection teams (there are three such points: the airports in Warsaw, Wroclaw, and Krakow),
- Informed about national implementing legislation,
- Notified the offer of the assistance to the OPCW according to the Article X of the Convention.

In Poland's case, the provisions of the Convention apply mainly to the industrial activities. Hence, even before the Convention entered into force, the preliminary work has been done to identify facilities that may be subject to the Convention. Seventy chemical and pharmaceutical companies were selected, whose business activities are now carefully monitored and controlled under the Convention. Also, research and development institutes and trade companies have been subjected to monitoring.

The legislation was followed by the respective executive legislation such as:

- decree of the Minister of Economy detailing out the permission of business activity where toxic chemicals are used,
- decree of the Minister of Economy concerning specific data to be included in the business reports of entities dealing in chemical substances.

b. Counter-terrorism measures

Poland is party to 11 United Nations "antiterrorist" conventions and protocols.

Poland is not yet party to one antiterrorist convention:

- Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991. Ratification is on the way.

National policy

Terrorism is at present one of the most serious threats the international and national security. Since terrorist actions have global dimension and they create tensions and instability on many level, Poland's policy underlines the importance of strengthening the role of international co-operation, international law and international organisations. Even the best national structures are not able to unilaterally eliminate this threat.

Due to the character of the terrorist threat, Poland is also taking necessary measures at national level to

suppress and prevent terrorism. In 2004 the Polish Penal Code was amended and the definition and offence of the terrorist character was introduced. At present, appropriate steps to assure the better institutional co-ordination are undertaken, involving the establishment of the National Co-ordinator on Combating Terrorism.

Legal framework

Penal law

The Polish penal law (Penal Code of the Republic of Poland of 6th June 1997) penalises individual terrorist acts on the basis of general criminal provisions (i.e. crimes against peace, humanity and war crimes, crimes against the Republic of Poland, crimes against defence, crimes against life and health, crimes against public security, crimes against safety of transportation, crimes against public order etc.) The provisions of the law prohibit actions of such a character, and sanctions are envisaged reflecting the seriousness of such acts.

Article 115 (20) of the Penal Code of the Republic of Poland contains the definition of an offence of terrorist character. It is a criminal act subject to the penalty up to 5 years or more of imprisonment, committed with an aim to seriously intimidate the population or to force the public authority of Poland or other country or international organisation to act or not to act, or to cause considerable interference in the economy or constitutional structure of Poland or other country or international organisation.

The above mentioned definition provides for a possibility to introduce more severe sanctions for the perpetrator of an offence of terrorist character (Article 65 (1) of the Penal Code) and to apply the Polish Penal Code to Polish nationals, Polish organisational entities and aliens who committed offence of a terrorist character abroad (Article 110 (1) of the Penal Code).

Article 258 of the Penal Code contains provisions concerning terrorist organisation. It stipulates that whoever participates in an organisation which objective is to commit an offence of terrorist character, shall be punished with 6 months up to 8 years of imprisonment. Whoever forms or leads such an organisation is subject to imprisonment for no less than 3 years.

Procedural rules

There are no specific procedural rules applicable to persons accused of committing terrorist offences. In such cases, regular provisions of the Code of Penal Procedure shall apply.

In fighting the organised crime and terrorism a number of special legal instruments can be applied, i.e. special investigating teams, special investigating methods, the use of undercover agents, sting operations, key witness procedures, incognito witness, witness protection programs.

Prevention of financing terrorism

The Law on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the Financing of Terrorism of 16 November 2000 (with amendments) sets forth standards of the procedure of combating money laundering and financing of terrorism in Poland. On the basis of the regulations of the Law, General Inspector of Financial Information has been nominated and the Department of Financial Information as Polish Financial Intelligence Unit has been created.

The basic tasks of the General Inspector of Financial Information and the Department of Financial Information are to: collect, keep, process and analyse information according to the procedures provided for in the Law. The tasks encompass, in particular:

- current co-operation with the domestic institutions charged with preventing of money laundering and financing of terrorism,
- current co-operation with domestic and international institutions and organisations associated with the Polish financial system,
- administration of the data received from obligated institutions,
- analyzing information on controls carried out by institutions indicated in the Law,
- drafting of relevant legal acts,
- drafting of periodical reports on General Inspector of Financial Information activities.

Due to the Amendment to the Law on Counteracting Introduction into Financial Circulation of Property Values Derived from Illegal or Undisclosed Sources and on Counteracting the financing of Terrorism of

27 September 2002 the General Inspector of Financial Information is entitled to:

- prevent financing of terrorism,
- co-operate with foreign institutions dealing with preventing the financing of terrorism,
- perform bank transaction suspension or bank account blockade procedure concerning financing of terrorism,
- transmit to the obliged institution information about entities reasonably suspected of having connections with terrorist acts.

Pursuant to the Law the following institutions are obliged to combat financing of terrorism:

- banks, foreign bank branches,
- brokerage houses,
- banks carrying out brokerage activity and other entities not being banks engaged in brokerage activities,
- entities conducting activity involving games of chance, mutual betting and automatic machine games,
- insurance companies,
- main branches of foreign insurance companies,
- investment funds, investment funds societies,
- co-operative savings and credit banks,
- state public utility enterprise - Polish Postal Service,
- notaries public (for the procedures concerning deals in the property),
- residents engaged in currency exchange,
- Entrepreneurs running: auction houses, antique shops, conducting leasing and factoring activity, activity in the scope of precious and semi-precious metals and stones trade, commission sale, giving loans on pawn (pawnshops), real estate agents.

The General Inspector collects information about natural and legal persons who are suspect of the offence of financing of terrorism. The data basis with list of those persons and entities is actualised on the regular basis. On the basis of possessed information the General Inspector transmits to the obliged institutions the information if there is a well-grounded suspicion that they are linked to the offence mentioned above. Obligated institution shall inform the General Inspector forthwith about keeping an account on behalf of entity, mentioned above, and on transactions, to which this entity appears as party.

The General Inspector is entitled to perform: transaction suspension procedure, i.e. temporary (period

not exceeding 48 hours following the notification) restrictions on the disposition and use of the material assets, consisting in preventing performance of a specific transaction by an obligated institution and blocking of an account procedure, i.e. temporary (period not exceeding 48 hours following the notification) preventing disposition and use of all material assets accumulated on the account, including also by an obligated institution.

Public prosecutor may, by a decision, suspend the transaction or proceed with blocking of account for a definite period, however not exceeding 3 months following the receipt of General Inspector's notification. Pursuant to the Chapter V of Penal Code the court may decide on forfeiture of the objects directly derived from the offence, which have been used or have been supposed to be used for committing the crime. The Law of September 9 2000 amending the Code of Criminal Procedure constitutes the legal basis for incoming and outgoing requests concerning forfeiture. It creates a general possibility for forfeiture.

Under Article 44 of the Penal Code the court shall impose the forfeiture of items directly derived from an offence, unless they are subject to return to the injured person or to another entity. The court may decide on the forfeiture of the items, which served or were designed for committing the offence unless they are subject to the return to another entity. The forfeiture described above shall not be applied if its imposition would not be commensurate with the severity of the offence committed. In such situation the court may impose a supplementary payment to the State Treasury. The court may impose the obligation to pay a pecuniary equivalent of their value in the event the perpetrator has intentionally prevented the possibility of imposing the forfeiture of items specified above. When the court comes to conclusion that the conviction has pertained to an offence of violating a prohibition of production, possession or dealing in or transporting specific items, it may decide on the forfeiture thereof. Property subject to forfeiture, shall be transferred to the ownership of the State Treasury at the time the sentence becomes final and valid.

Legislation or other measures to prohibit offences in Poland related to recruitment to terrorist groups and the supply of weapons to terrorists

In case of measures to prohibit offences related to

recruitment to terrorist groups the key provision is contained in the Article 258 of the Penal Code Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for maintenance of international peace and security applies to the issue of supply weapons to terrorists, mechanisms and procedures of control of trade in strategic goods, technologies and services relevant to national security, as well as to the maintenance of international peace and security. Poland is also a party to the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and their destruction.

Legislation and procedures existing in Poland for denying safe haven to terrorists

This is regulated by the Law on Aliens of 13 June 2003. Law on Aliens stipulates that an alien may be refused visa or entry clearance on the territory of the Republic of Poland if there is reasonable suspicion that the alien engages in terrorist activity, participates in such an activity, organises it or is member of a terrorist organisation. Additionally, the Law on Aliens stipulates that an alien may be also refused visa and entry if there is a reasonable suspicion that he carries across the border, without required permission, arms, munitions, explosive materials, radioactive materials or drugs or psychotropic substances, participates in such an activity, organises it or is a member of an organisation engaged in such an activity.

An alien may be denied entry to Poland if his entry or stay is undesired due to the obligations resulting from the provisions of ratified international treaties to which Poland is party or if it is undesired due to other threat to national security and defence or due to the need to protect public order. The Chairman of the Office for Repatriation and Aliens is, on the basis of the subject law, the competent authority to maintain the list of undesired persons. The list, which is updated on a regular basis, is forwarded to diplomatic missions and consular offices of Poland abroad. Every visa application is verified with the list and undesired persons will be denied visa or permit for entry. The co-operation between competent authorities ensures strict implementation of requirements of the international law binding Poland in this matter. For the same reasons, on the basis of Article 52 an alien may be expelled from the territory of

Poland, on the basis of administrative decision issued by the competent authority.

Legislation and procedures existing in Poland to prevent terrorists acting from Polish territory against other states or citizens

In this case provision of the Penal Code shall be applicable as in relation with the response to paragraph 2 (a), namely Article 258 (Chapter XXXII - Crimes against public order).

Legislation on Firearms, Explosives and Provisions common to firearms and explosives

The Law of 21 May 1999 on arms and munitions determines detailed principles of issuance and withdrawal of permits for arms, acquisition, storage, disposal and deposition of arms and munitions, transport through the national territory, import and export of arms and munitions and principles governing the possession of arms and munitions by aliens. The acquisition and possession of firearms is subject to special permit issued by competent Police organ. The Law specifies cases where permits cannot be issued to persons who do not meet specific requirements or infringed conditions and obligations set forth in the Law. The same conditions apply to the withdrawal of permits. Firearms should be registered and the owner has to have special document confirming possession of arms. The provisions of the Law apply to aliens accordingly. There are specific provisions in the Law related to possession of arms and munitions in case of members of diplomatic missions and consular offices, other persons with equal status, who can possess arms and munitions on the basis of international agreements or the principle of mutuality. In this case the possession of arms is subject to temporary permit issued by competent Police organ. The Law contains penal sanctions and provisions on seizure of arms and munitions. There are executive regulations to that Law, which relate inter alia to: types of especially dangerous arms and munitions in case of which permit may be issued; medical and psychological examination of persons who apply for or possess permit; model declaration of importation from abroad of arms and munitions and procedure for transmission of information to the Police on importation of arms and munitions by customs services; procedure and conditions for the issuance of permits for arms to the members of diplomatic mis-

sions and consular offices and persons having equal status; detailed principles of deposition of arms and munitions; model required documents, etc.

The Law of 21 June 2002 on explosives for civilian use determines principles of issuance and withdrawal of permits for acquisition and storage of explosives, basic requirements in relation with explosives introduced to trade, principles governing the transport of explosives and its control, conformity assessment procedures and marking of explosives. Acquisition and storage of explosives for civilian use requires permit, issued by chief of provincial administration (representative of the Government in the province), competent for the registered office of the requesting person. The Law specifies the information required for the issuance of permit, conditions to be met by these persons to obtain the permit as well as the cases when the permit should be denied or withdrawn. Transport and transit of explosives requires consent of the Minister for Economy and Labour. There are executive regulations to that Law, which determine inter alia: requirements of training and examination of persons, who have access to explosives, model register of explosives, and model request for permit. There are separate legal provisions relating to the possession and use of firearms and explosives by state bodies and their officers responsible for the maintenance of national security and public order as well as Armed Forces.

The provisions concerning the principles of economic activity relating to the manufacturing and trade with explosives, arms, munitions and products and technologies of military and police purposes are contained in the Law of 22 June 2001. Executive regulations to that Law specify: conditions of sale of, scope and manner of verification of consistency with these requirements, requirements as to quality assessment, registration of these sensitive materials, and principles of management in terms of environmental protection and protection of human life and health.

Institutional framework

There are two agencies playing a leading role in anti-terrorists actions in Poland: Internal Security Agency (ABW) and the Police. Although there is a clear division between their responsibilities, the two services co-operate very closely, since terrorism is a serious threat of public concern.

The Internal Security Agency is responsible for issues connected with the protection of the State's internal security and its constitutional order. The main tasks of the Agency include, among others, combating all kinds of threats to the State's internal security, such as the crimes of espionage and terrorism, ABC proliferation and drug trafficking on an international scale. The Agency has investigation powers allowing it to conduct various legal procedures.

The Police, who is generally responsible for public order, have within its structures the Central Investigation Bureau (CBS), which deals with the most serious crimes, and Antiterrorism Task Force (ZOA KGP).

Other institutions involved in anti-terrorist activities:

- the Foreign Intelligence Agency (AW)
- the General Inspector of Financial Information (GIIF)
- the Military Intelligence Services (WSI)
- the Border Guard (SG)
- the Government Protection Bureau (BOR)
- the Custom Service

Additionally, two other bodies, which do not take part in operational activities, should be mentioned: The National Security Council (RBN), which is an advisory body to the President of the Republic of Poland, responsible for setting general plans and objectives concerning security, international relations and armed forces.

The National Security Bureau (BBN), which is a part of the President's Chancellery, provides technical and merit support to the RBN and plays a role of a think-tank.

The co-ordination of the activities of various bodies and agencies and monitoring the threat of terrorism is the task of the Inter-ministerial Centre for Organised Crime and International Terrorism, which is an auxiliary body to the Prime Minister. The Government Intelligence Community acts as the Prime Minister's advisory body and is responsible for foreign intelligence. Its main task is to exchange information, analyse intelligence and producing threat assessments.

To ensure better consolidation and better operational co-ordination of terrorism-related work and simplify the exchange of information and intelli-

gence, the Counter Terrorism Task Force for Co-ordination of Operational Cases was established.

The Crisis Management Team consists of the representatives of appropriate Ministries and is responsible for actions taken with regard to crisis situations (e.g. terrorist's attack, flood etc.).

The task of The Team for Co-ordination of Operational Activities regarding Combating Political Terrorism is to exchange information about terrorist threat and persons suspected of terrorist activities.

The Task Force on acts of terror with the use of explosives deals with analysis of the threat of terrorist activities with the use of explosives.

International Co-operation

Poland regards international co-operation in the fighting of terrorism as a matter of a great importance. Since terrorism is a phenomenon of international dimension, the proper commitment on the international level is essential to suppress the terrorists' activities.

From Poland's point of view fostering the legal co-operation between states is crucial. Therefore Poland is a party to many bilateral agreements concerning extradition, mutual assistance and counter-organised crime. Poland is also a party to a number of multilateral treaties devoted to that subject.

Poland signed all twelve United Nations Anti-Terrorism Conventions and has ratified 11 of them. At present the ratification procedure of Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March is the pending issue. The ratification process of Amending Protocol to the European Convention on the Suppression of terrorism is in its final stage and the instrument of ratification will be handed this year. Poland has implemented 8 special recommendation of the FATF and is pursuing an active policy with an aim to join the Group.

Measures in the EU framework

Poland supports strengthening anti-terrorist co-operation on the EU level. Poland shares the views expressed in the European Council Declaration on the fight against terrorism and Revised Plan of Action on combating terrorism and introduces nec-

essary changes in its national law. Moreover due to implementation of the Framework Decision on European arrest warrant, the appropriate changes to the Code of Penal Procedure were introduced in May 2004.

Poland is of the opinion that the co-operation on the European level, exchange of information and experience between States and appropriate legal solutions are playing a key role. Taking into account free movement of people, services, capital and ideas it is impossible to observe security issues only from the national point of view. In that case the broader perspective is indispensable.

c. Export Controls

The control of foreign trade in strategic goods is regulated by the 29 November 2000 Law on external trade in goods, technologies and services of strategic importance for national security and maintenance of international peace and security, recently amended on 2 July 2004. The amendments mainly resulted from the fact that starting from 1 May 2004 the European Council Regulation No. 1334/2000 of 22 June 2000, setting up a Community regime for the control of export of dual-use items and technology is directly binding in the Polish legal system.

Summarising, the export control regulations in Polish law:

- introduce general and global licences covering export, import or transit of goods or technologies subject to control,
- extend control to commodities which do not figure on control lists if there is no certainty about their end use,
- implement control of trade in "intangible" technologies, i.e. which can be transmitted by way of computers, fax machines and telephones, or conveyed during training courses,
- make possible involvement of a company in the exercise of control of foreign trade in strategic goods,
- lay the groundwork for development of partnership and co-operation of business operators with government administration.

Important is that the ban on foreign trade in strategic goods and services remains in force unless a business operator has complied with all terms and

restrictions laid down in the said law, in other laws, as well as other international agreements and arrangements. A privilege of trade in sensitive goods - which takes the form of a licence - can be withdrawn or changed, or else, the enterprise owner may be denied it at all.

Pursuant to the aforesaid law, the Ministry of Economy and Labour demands that a Polish entrepreneur submits an end-user's international import certificate or end-user statement, confirmed by the relevant government authorities of a foreign importer. The end-user's statement is issued by a foreign end-user, and its contents must meet the requirements of the Ministry of Economy and Labour. This statement has to bear a confirmation of both a foreign importer and the authorities of a country of destination. The document is used in all export transactions with the aim of transferring responsibility on to foreign trading partners and their authorities, as well as safeguarding goods against being forwarded to unauthorised destinations.

A new law regulating the country's foreign trade in goods, technologies and services of strategic relevance for its security, as well as for the maintenance of international peace and security came in force on 1 January 2001. This law incorporates mechanisms of the European Union Code of Conduct in Arms Export, which in June 1998 won approval from the EU's General Affairs Council. The idea of Poland's foreign trade control system is underpinned by the concept of industrial enterprises, trade companies and research and development centres running their own, internal control systems. Control on the ground is to be organised by Polish manufacturers, exporters, users, research and development centres, etc. Control has to be exercised by brokers, dispatchers, haulers, operators of cargo-handling plants and trade consultants on their own turf. The track record of mature trade control systems highlights motivations of manufacturers or exporters and the two-way flow of information between the government administration, business people and scientists. The aim is to deploy control mechanisms and procedures, which meet international standards Poland's membership in NATO and in the European Union has prompted modifications of legal regulations, mechanisms and procedures relevant to its foreign trade in armaments and military equipment, as well as dual-use goods and technologies.

Present export controls regulations concerning dual-use goods in Poland are based on the European Council Regulation No. 1334/2000, updated by the Regulation No. 1504/2004 of 19 July 2004 (update of control list). In respect of arms export, national control list is applicable. As far as control of foreign trade in dual-use goods is concerned the following changes were introduced:

- withdrawing from licensing of import of dual-use goods and introduction of import monitoring for some items connected with telecommunications and "information security", included in the category 5 of the Community dual-use control list (Annex I to the Council Regulation No. 1334/2000), due to national security reasons;
- direct application of the control list included in Annex I to the Regulation No. 1334/2000;
- inclusion of control of technical assistance and brokering into provisions covering control of services related to all goods of strategic relevance following the Council Common Position 2003/468/CFSP of 23 June 2003 on the control of arms brokering and Joint Action of 22 June 2000 concerning control of technical assistance related to certain military end-uses;
- introduction of provisions enabling use of the Community General Export Authorization;
- issuing of national general authorizations in the form of regulation in accordance with indications set out in Annex IIIb to the Regulation 1334/2000;
- issuing individual and global licenses on forms consistent with Annex IIIa to the Regulation 1334/2000;
- possibility of granting global licenses for export of spare-parts and some kind of services (mainly for forwarding services);
- application of prior registration of companies before the use of the Community General Export Authorization and general national authorizations;
- removing all charges for granting licenses and all certificates provided in the law.

Import control

The Minister of Economy and Labour, pursuant to the law of 29 November 2000, issues an import certificate or confirms the statement of end user, only when the authorities of a foreign importer's country require so. The law further stipulates that the international import certificate and the end-user's statement are documents to be submitted to the appropriate authorities beyond Poland's borders. They

confirm importer's credibility and are subject to control of the relevant agencies. Minister of Economy and Labour refuses issuance of an import certificate or denies a confirmation to end-user statement in cases of lack of confirmation of control being exercised over imports to Poland or no guarantee that trade in strategic goods was conducted in accordance with the provisions of the law.

Separate procedures exist in cases of control of trade in goods, which are not included on control list and goods in transit. A system of control of foreign trade in goods, technologies and services of strategic importance for the security of the state and international peace and security came into effect on 1 January 2001. By introducing a control system imposing restrictions on deliveries of arms, military equipment as well as goods and technologies which might be used by terrorist organisations for production of mass destruction weapons Poland supports international community in a common policy to save international peace and security. The Ministry of Economy and Labour has launched a series of training schemes for businessmen. The said training schemes cover university-level schools, research and development and technological centres.

Issuance of licences

Polish current legislation provides for the following licenses, issued by the Minister of Economy and Labour:

- individual licenses: covering a specific goods or a service pertaining to such, and a country, with which the particular entrepreneur may enter into trade,
- general licenses in the form of regulation: covering a type or a category of dual-use goods, in which trade may be conducted with one or more countries specified therein,
- global licenses: covering a type or a category of dual use goods, in which trade may be conducted by the particular entrepreneur with specified one or more partner countries,

Licenses are required for:

- export and transit of dual use goods as well as for export, import and transit of munitions and military equipment,
- grant, loan, leasing or other form of disposal of those goods to other persons,

- forwarding services, shipment and loading services,
- all associated services including brokering and technical assistance,

For trade or services in connection with munitions, solely individual licenses can be issued.

Licenses are granted only to those companies which have introduced internal control systems.

In licensing process Minister of Economy and Labour co-operates with the Minister of Foreign Affairs, Minister of National Defence, Minister of Finance, Minister of Internal Affairs and Administration, Head of the Internal Security Agency, President of the National Atomic Energy Agency and Head of Foreign Intelligence Agency. No licence can be issued without opinions given by the above institutions.

Minister of Economy and Labour refuses to issue an export, import or transit licence, if:

- the pursuit of such trade would be in breach of obligations assumed by the Republic of Poland under international agreements,
- the issuance of a licences is incompatible with the interests of the foreign policy of the Republic of Poland, national defence or security-related considerations, or important economic interests of the Republic of Poland, or
- the applicant does not make any warranty as to the lawful conduct of his operations,
- there is a risk the end use or destination of strategic goods can be changed, and
- the applicant has been in breach of regulations governing trade in strategic goods.

Minister of Economy and Labour can at any time on the basis of administrative decision revoke or alter a licence already issued to an individual operator if at least one of the circumstances listed above come into play, or the operator action is in breach with the terms laid down in the licence.

Internal system of control

Pursuant to the 29 November 2000 law, the enterprise owner is under the obligation to check whether:

- the end-user intends to use the armaments for breaking or suppressing human rights and fundamental freedoms,

- the arms he is about to deliver will raise a threat to peace or in some other way will contribute to upsetting the region's stability,
- the country of ultimate destination supports, facilitates or encourages terrorism or international crime,
- the arms to be exported can be used for a purpose other than meeting the legitimate defence and security-related needs of the receiving state.

To comply with the above requirements, the contractor is duty-bound to create and apply an internal control system and management of trade in strategic goods to help him run each and every transaction. An internal control system, being an instrument for safeguarding a company against actions incompatible with national trade control requirements and relevant international arrangements was introduced. Fitted with their own, internal control systems, Polish firms are able to protect both their commercial interests and their respective images internationally.

d. NBC Defence Capability of the Polish Armed Forces (peace time)

The position of Ministry of National Defence regarding the risks posed by the proliferation of nuclear, biological and chemical weapons and their means of delivery derives from the fact that nowadays there are increasing threats related to the spread of WMD and possibility of their terrorist use. Polish Armed Forces fully contribute to the work arising from NATO NBC Defence Initiatives taken at Prague Summit, and have offered a national support in this field.

Polish Armed Forces are interested in developing measures aimed at limiting the threat of proliferation of weapons of mass destruction. Therefore, the Polish NBC Defence Staffs and Units are obliged to be ready to protect and support troops and civilians when necessary.

The main mission of the Polish NBC Defence Corps is:

- to protect of the forces and allowing them to fight and win under NBC (TIM, LLR) threat or environment;
- to implement the Convention on the Prohibition of Chemical Weapons in Armed Forces.

NBC Defence units conduct special NBC tasks. The main of them are:

- protection against the effect of the use NBC weapons;
- NC monitoring and reconnaissance;
- NBC warning and reporting;
- analysing and forecasting the effects of NBC strike;
- rescue, emergency-evacuation operations;
- decontamination.

In peacetime, Polish Armed Forces include the following types of chemical units:

1. NBC Regiment consisting of reconnaissance, decontamination, smoke, and logistic subunits. The unit is prepared for:
 - providing NC reconnaissance, NBC warning and reporting, decontamination, large smoke area support for elements of a central subordination or corps;
 - providing rescue operation in toxic industrial environment.
2. NBC Battalion consisting of NC reconnaissance, decontamination, smoke, and logistic subunits. The unit is prepared to conduct the same tasks as regiment.
3. NBC Companies designed for Armour/Mechanised Divisions, Main Air Force Bases and Main Navy Bases.
4. NBC Platoons designed for Armour/Mechanised Brigades.

Although the main task of troops is to be ready for war, their power and technical and organisational potential should be useful also during peacetime. It certainly also refers to chemical troops or the NBC Defence system as a whole. One of the main peacetime roles for this system results from Chernobyl disaster is monitoring the level of radioactive pollution environment.

Basing on the current documents, the Polish Armed Forces Early Warning System was established as a part of National Measurement Network.

This system comprises:

- an automated radiological contamination measurement network;
- analytical centres;
- data collection and situation analysis units.

The automated radiological contamination measurement network consist of 13 SAPOS 90 MS devices. The meters are located within the on-duty

staffs and military units connected to a dispatch computer in the NBC Area Control Centre.

Other sources of hazard and in result task for NBC Defence units are Industrial Toxic Materials. Over the country we can find chemical plants, storage or various other installations with TIM are located and create a real threat of contamination in case of terrorist's attack.

In 1989 Radiological and Chemical Emergency Teams were established in order to survey and neutralise the results of chemical and radiological accidents. The teams may operate within military installations and also provide the help for civilians. Altogether there are 4 teams which operate on Military Districts and Navy area of responsibilities.

Each team consist of:

- an operational group consisting of NBC, engineering and medical specialists - the OG which task is to manage the whole team;
- data collection and situation analysis group;
- rescue group and NBC, engineering and medical units and others if needed.

The Polish Armed Forces both in peace and wartime are equipped with individual respiratory and skin protective gear. Mainly, personnel use MP-4 filtration masks. However, High Readiness Forces are equipped with MP-5 masks. Apart from that, soldiers are equipped with protective overalls (type OP-1) that protect skin against impacts of WMD effects. Special units, such as NBC and some other units are equipped with protective overall - L-2 based on rubberised cotton clothing. The main units of High Readiness Forces are equipping with new protective suit (FOO) based on SARATOGA fabric. Moreover, Military Group of Chemical Rescue Specialists is issued with gas-proof protective clothes and oxygen masks that meet the standards of western rescue services. Collective NBC protection is implemented through the use of armored vehicles and shelters equipped with filtration devices. There are research and development programs underway on unhardened collective protection ref. NATO standards.

5. REFERENCES TO THE OPERATIVE PART OF RESOLUTION

1. **Decides that all States shall refrain from providing any form of support to non-State actors**

that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

All activities on any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery are prohibited under the Polish law.

2. Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

The Polish Penal Code incorporates penal sanctions against any persons who - in violation of international law - produce, stockpile, acquire, sell, or transport weapons of mass destruction or other means of combat, or conduct research aimed at producing or using such weapons.

According to the Penal Code (Journal of Laws No. 88, item 553), Chapter XVI. Crimes against peace, humanity and war crimes, Art. 120 states that: A person, who uses the weapon of mass destruction prohibited by international law, shall be sentenced to imprisonment for the time not shorter than 10 years, for 25 years or for life.

In Art. 121.1. A person, who in contradiction to the prohibitions of the international law or provisions of law (statute), manufactures, collects, acquires, sells, stores, transports or transmits the weapons of mass destruction or develops them with the view to their manufacturing or use, shall be sentenced to imprisonment for 1 year up to 10 years.

The same penalty shall be applicable to a person, who allows the commitment of the act referred to in paragraph. 1.

Atomic Law of 29 November 2000, (Journal of Laws No. 3 item 18 of 2001; last update: Journal of Laws No. 70, No. 96 of 2004) establishes licensing system and explicitly forbids development of nuclear weapons

Accordingly to Article 4 of the Law of 22 June 2001 on the implementation of the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (J. of L. No. 76, item 812) it is prohibited in the territory of the Republic of Poland:

- 1) development, production, manufacturing, processing, consumption or otherwise acquiring, collecting, stockpiling, sale or transfer to anyone of chemical weapons,
- 2) use of chemical weapons,
- 3) engaging in any military preparations to use chemical weapons,
- 4) use of riot control agents as a method of warfare,
- 5) abetting or assistance in engaging in the activity prohibited under subparagraphs 1-4 above.

3. Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

- (a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;**
- (b) Develop and maintain appropriate effective physical protection measures;**

Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping international peace and security introduces general and global licences covering export, import or transit of goods or technologies subject to control and, in particular:

- extends control to commodities which do not figure on control lists if there is no certainty about their end use,
- ushers in control of trade in "intangible" technologies, i.e. which can be transmitted by way of computers, fax machines and telephones, or conveyed during training courses,
- makes possible involvement of a company in the exercise of control of external trade in strategic goods,
- lays the groundwork for development of partnership and co-operation of business operators with government administration.

Domestic controls in the nuclear sphere are based on legal acts:

1. Agreement between Poland and the International Atomic Energy Agency for the application of Safeguards in Connection with the Treaty on the Non-proliferation of Nuclear Weapons - INFCIRC 179 (based on the IAEA INFCIRC/153) which entered into force on 11 of October 1972. This document establishes the rules for nuclear safeguards in Poland prohibiting access to nuclear materials to non-state entities.
2. Atomic Law of 29 November 2000, (Journal of Laws No. 3, item 18 of 2001; last update: Journal of Laws No. 70, No. 96 of 2004)

The Law requires that activities involving use of radioactive materials shall be licensed and requires physical protection of nuclear materials as well as safeguards procedures for their control.

3. Regulation of Council of Ministers of 27 April 2004 on Nuclear Material Safeguards (Journal of Laws No. 98, item 982 of 2004) pursuant to obligations contained in the Agreement on Safeguards between Poland and the IAEA, ratified in 1972.
4. Regulation of Council of Ministers of 31 July 2004 on Physical Protection of Nuclear Materials (Journal of Laws No. 90, item 997 of 2001), pursuant to obligations under the Convention of Physical Protection of Nuclear Materials (open for signature in 1980 and ratified by Poland on 3.03.1989) and to requirements for a State System for physical protection of nuclear materials defined in the recommendation INFCIRC/225 rev. 4 of the International Atomic Energy Agency. The Regulation requires that users of nuclear materials ensure their physical protection according to principles of the IAEA.

Starting 11 September 2001 more stringent procedures of physical protection have been implemented in the facilities of the Institute of Atomic Energy.

Domestic controls in the chemical sphere are based on the Law of 22 June 2001 on the implementation of the CWC. Its Article 5 states that "The production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors, mentioned in Schedule 1 of the Annex of Chemicals to the Convention, hereinafter referred to as "the Schedule 1", may be carried out only for the purposes not prohibited under the Convention and in the amounts

allowed for therein and in accordance with its requirements"

Any activity involving the chemicals included in Schedule 1 of the Convention may be conducted only for purposes not prohibited under the Convention, for allowed quantities and in accordance with the provisions of the Conventions, subject to obtaining the appropriate permission for such activity. The permission can be obtained from the Minister of Economy, Labour and Social Policy (for civilian area) or from the Minister of National Defense (for military area). Export, import, and transit of Schedule 1 chemicals to and from States not Parties to the Convention are prohibited, whereas to and from States Parties to the Convention are permissible only for the purpose not prohibited by the Convention and in permissible quantities, if duly licensed by the Minister of Economy and Labour.

Export, import, and transit of Schedule 2 or 3 chemicals are permitted exclusively in relation to the States Parties to the Convention subject to obtaining the license.

Domestic controls in the biological sphere is based on various legal acts, including Penal Code, Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping international peace and security, and others.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law

Law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in nuclear, chemical, or biological weapons and their means of delivery are covered by three agencies, i.e.: Border Guard, Custom Service and Internal Security Agency.

Border Guard

In order to protect from illegal entry (transit) of

radioactive sources and substances, nuclear, chemical, biological materials constituting a potential threat to human life and health, in October of 1990 chemical and radiometric (ecological) control of individuals and goods was introduced in all border crossing points. The system of this control is being systematically expanded. BG officers (specialists in radiation control) undertake this control in border crossing points based on the following documents presented by the carrier or forwarding agent: bill of lading, permit for transportation or export, export declaration, customs application, SAD form, etc. The officers also undertake external inspection of vehicle and freight, its sign-shields according to binding patterns and check the level of contamination with technical equipment.

According to the Act on Border Guard of October 12, 1990 (Journal of Laws no. 78, item 462 with later amendments), one of the tasks carried into effect by the BG is "preventing transportation, without the permit required in accordance with separate regulations, through the state border of waste, harmful chemical substances also nuclear and radioactive materials, as well as polluting border waters". Furthermore BG organizational border units share action plans and cooperation plans with bodies and institutions functioning in border crossing points in event of employment of mass destruction weapon, threat to human life and health or natural environment within the territorial range of the border crossing point. These plans include:

- types of threats,
- principles of conduct in threat situations,
- utilization of own forces and resources,
- notification and communication system.

Installation of stationary equipment for contamination control begun in the year 1990 by placing so-called radiometric gates in border crossing points. With time radiometric gates were modernized or adapted to specific conditions e.g. in airports and seaports.

Currently the total number of stationary equipment for contamination control of persons and vehicles on the state border totals 182 sets, including 8 devices of the new PM 500 type construction that can detect neutrons. These tools have been manufactured in Poland.

Custom Service

The Law of 24 July 1999 on Custom Service (Journal of Laws of 2004, No. 156, item 1641) remains a legal basis for Custom Service activity, in the implementation of particular tasks, emerging from two acts:

- Council Regulation (EC) no 1334/2000 setting up a Community regime for the control of exports of dual-use items and technology
- Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping international peace and security
- Changes to the Law on Custom Service, done after Poland's accession to EU, enables CS to conduct investigation activities.

Internal Security Agency

The legal basis for Internal Security Agency (ABW) is Law of 24 May 2002 on Internal Security Agency, which, in its art. 5 regulates ABW role in countering WMD proliferation. It includes:

1. Recognizing, preventing, and exposing crimes of:
 - Illicit production and trade in goods, technologies and services of strategic importance (including dual-use goods)
 - Illegal production, possession and trade in arms
2. Performing intelligence and investigative activities in order to recognize, prevent and expose mentioned above crimes;
3. Prosecuting the perpetrators of the crimes mentioned above;
4. Acquiring, analyzing, processing and forwarding to appropriate authorities information which may be vital to the fight against WMD proliferation;
5. Investigating forms and methods of national and international individuals illegal activity;
6. Investigating individuals, groups and organizations suspected or identified as being involved in proliferation-related activity and countering threats arising from their activity;
7. Collecting intelligence about any proliferation-related activity on Polish territory;
8. Direct co-operation with other Polish law enforcement agencies;
9. Co-operation and exchange of information with partner services.

(d) Establish, develop, review and maintain appropriate effective national export and trans-ship-

ment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations

The tasks under paragraph 4(d) of the Resolution 1540 are implemented on the basis of Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping international peace and security

5. Decides that none of the obligations set forth in this Resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;

Poland is a State party to the all above-mentioned international treaties and fully implements their provisions.

6. Recognizes the utility in implementing this Resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Poland, as an active member of the Nuclear Suppliers Group, Missile Technology Control Regime, Australia Group, Zangger Committee and Wassenaar Arrangement develops and regularly updates its national export control lists.

7. Recognizes that some States may require assistance in implementing the provisions of this Resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Poland is willing to offer its assistance in implementing the provisions of the Resolution. Our activity in this regard will be directed to the States of the region of Central and Eastern Europe. We are ready to provide assistance in building legal and administrative infrastructure, sharing with implementation experience, and training respective national authorities.

8. Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Poland promotes universalisation of multilateral instruments on non-proliferation.

As a next Chair of the Conference of the States Parties to Chemical Weapons Convention, Poland will pay a special attention to this subject.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Poland has begun a study to review its obligations under BTWC with an aim to revise and – if necessary – to adopt new, regulations on implementation the BTWC provisions, accordingly to the review process conducted in Geneva.

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Poland fully supports the aims and objectives of all international treaties and promotes full compliance to their provisions.

As a next Chair of the Conference of the States Parties to Chemical Weapons Convention, Poland will take measures to strengthen efforts for promoting objectives of CWC.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Poland's authorities (Ministry of Economy and Labour) conduct a series of actions with the aim to:

- involve Poland's manufacturers, merchants, service providers and scientific research facilities in the actions aimed against those organizations that seek to instigate local or regional armed conflicts.
- involve Poland's industry in joint efforts against identified or possible terrorist organisations in pursuit of international peace and stability.
- harmonize actions taken by the Poland's industry and the Polish administration with those taken by the Member States of the EU to prevent proliferation of weapons of mass destruction and preclude the destabilizing effects of stockpiling of conventional weapons, as well as to forestall uncontrolled transfers of dual-use goods and technologies that can be detrimental to regional and global peace and stability.
- Following the example set by the EU and NATO Member States - to create an environment conducive to a dialog and information exchange between the industry and governmental administration in the field of control of international trade in strategically relevant goods.

9. Calls upon all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery

Poland is ready to host, by the end of 2005, international conference on the UNSC Resolution 1540 (2004). The conference aims shall include promoting dialogue and co-operation on non-proliferation and providing overall support UNSCR 1540 (2004) implementation.

A detailed proposal will be presented in due course.

10. Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

Poland takes appropriate actions to prevent illicit trafficking in WMD. Our participation in the Krakow Initiative (PSI) is aimed, inter alia, at efforts to build an internal mechanism of effective implementation of the Initiative, including improvement of inter-agency mechanism of cooperation in the sphere of illicit trafficking prevention.

ANNEX:

Statement by H.E. Dr. Włodzimierz Cimoszewicz Minister of Foreign Affairs of the Republic of Poland at the Fifty-Seventh Session of the General Assembly of the United Nations

New York, 15 September 2002

Mr. President,

Please accept my congratulations on your election to the presidency of this distinguished body.

May I also reaffirm the assurances of my highest appreciation and support to the Secretary-General of the United Nations, Mr. Kofi Annan.

It is with satisfaction that Poland welcomes in our midst the new Member of the United Nations – Switzerland and is looking forward to welcome soon the Republic of East Timor.

Mr. President,
Distinguished Delegates,

Wisława Szymborska, a Polish poetess and Nobel Prize winner, wrote the following words dedicated to the victims of September 11:

"They plunged down from heights ablaze (...) For them I can do but two things – depict their fight and have the last sentence unfinished..."

I believe that every one of us traveling to this brave city shared similar thoughts. We all must have asked ourselves a question – what is being expected of us, where are we today, what obligations are we to fulfill to make sure that such horror will never happen again?

No doubt, September 11 was a wake-up call for all of us. It may have not changed the world but certainly it has fundamentally changed the way we perceive it. Yet again the history has placed with us the responsibility to face the challenge and deliver to the future generations a better and safer world. But than – after all – isn't that really what we are here for?!

Many of my distinguished colleagues have touched upon this issue in recent days. The messages delivered here, just four days ago, by Secretary General Kofi Annan and President George W. Bush are especially significant. In that regard we also share the opinion expressed by a number of other speakers, in particular Prime Minister of Denmark, Mr. Anders F. Rasmussen, speaking in his capacity of the President of the European Union.

Today, United Nations stands at the crossroads, facing a choice that needs to be made. Either we will find internal strength to stand up to the challenge and prove to be more than a mere discussion forum or forever lose the credibility. Once again, as was the case at the onset over half a century ago, we must take the issues of security seriously especially that terrorism has given it a new dimension.

Poland as the founding member of the United Nations will continue to support all efforts aimed at preserving its unique position. We fully agree with what the UN Secretary General said, that we "can only succeed, if we make full use of multinational institutions". We share the position of President Bush, that the United Nations must be effective and successful and that UN Resolutions must be enforced. We are convinced that the Security Council must find enough strength in the nearest future to set the course for the decision-making process of the United Nations aimed at concrete actions. This time we are left with very little margin. This is the test that international community has to pass – failure would undermine both the United Nations' integrity and the security of the whole world.

Mr. President,

I think the most appropriate motto for my further reflections on the future of the United Nations is

contained in the Secretary-General's Millennium Report. He wrote: *"If the international community were to create a new United Nations tomorrow, its makeup would be surely different from the one we have"*.

It would be highly unfortunate if the Millennium Report, and especially its conclusions relating to the role of the United Nations and the reform of the Organization faded into oblivion. Only the United Nations, given its exceptional legitimacy stemming from the universal character of both its membership and mandate can – and, indeed, ought to – rise to the challenges posed to the international community. But for this to happen, its prerogatives, its rules and the instruments would have to be geared to the needs of today and the threats of tomorrow. This must be done by member states themselves, because, after all, the UN is – and will remain – an intergovernmental organization.

Mr. President,

We should consider elaboration of a document, which would be neither a draft revision of the Charter, nor its supplement, nor its enlarged version. What I would like to suggest is that we make an attempt to acknowledge the new reality and try a new road. By no means am I original or precedent-setting: the Atlantic Charter and the New Atlantic Charter, the 1975 Helsinki Final Act and the 1990 Paris Charter of New Europe have all been there before. In other words, adapting an organization's mandate to make it relevant to the new needs, without actually revising its foundation act, have already been tested.

There is a widespread awareness of some provisions of the United Nations Charter actually becoming a dead letter. That applies to both their substance and the procedural solutions they offer. Some of the Charter's provisions and organs have completed the tasks assigned to them. The de-colonization process made the Trusteeship Council redundant. But the Organization does need new mechanisms to run peacekeeping operations. It is impossible to comprehend why we still keep in place the "clauses on enemy states" while the UN has no regulations to properly address the problems related to its humanitarian interventions. There is a general acceptance of the need for clear lines to be drawn to mark new

areas of responsibility for a number of important UN organs.

Mr. President,

The values, purposes and principles of the United Nations, enshrined in the Preamble and Articles 1 and 2 of the Charter have not lost their relevance. They have stood the test of time. A document that could be considered as "New Act of the United Nations at the Dawn of the 21st Century" could give a fresh impetus to the principles, organs and mechanisms of the United Nations and make them more responsive to the needs and challenges that have dominated the life of the international community today.

Let me point out four groups of problems that should be tackled – starting with new threats to security:

- The Charter makes reference to threats traditionally raised by states; the Charter's provisions concerning the Security Council, its composition, instruments and the remaining chapters dealing with security are now insufficient – the fact exposed by numerous developments of the recent years, including the September 11th attack and its consequences;
- Then comes acute poverty, evident in many parts of the world, chronic underdevelopment, pandemic diseases, lack of education and medical care, the deepening differences in living conditions and developmental standards – all these being unacceptable and untenable politically and morally;
- Human rights, the rule of law, democracy, good governance and civil society are the third group of problems I have been thinking about;
- The fourth group is made up of sustainable development related themes focusing on the protection of both the human habitat, indispensable for the survival of the human race, and of the common heritage of mankind.

On top of that, the existing UN principles must be expanded or new ones developed for the Organization to pursue its actions in the following three dimensions, namely:

1. manifestations of multilateralism in UN work (reconciling broad representation and necessary collectivism with effectiveness);
2. subsidiarity in UN work to better utilize the

means and resources available to UN member states (relation: UN – regional arrangements);

3. getting non-governmental entities (including private capital) involved in UN work in a way which will not detract from the democratic nature of the Organization, will not erode its governmental character or its efficiency while increasing its resources and effectiveness.

I dare to say, that no country, group of countries or regional agencies meeting the Organization's criteria would be capable of taking within its range the totality of problems such an undertaking would have to address.

Subject to appropriate consultations involving the UN membership and the Secretary General we might wish to establish a Group of Sages made up of outstanding personalities. The Group would draft an appropriate document, which would then be assessed and approved by member states. That document should have a politically binding nature, which would combine with its legal anchorage in the Charter to provide a platform for the UN actions over the coming decades.

Mr. President,
Distinguished Delegates,

We should think about the future, and work on its foundations without losing sight of present-day achievements.

The enactment of the statute of the International Criminal Court is one such achievement. It turns a new page in both international relations and international law. It is Poland's desire for the treaty establishing the Court to become one of the most universal

documents of its kind. We trust that the existing divergences between respective stands and views can be resolved through dialogue and compromise, according to international law. We have to act so as not to disappoint the hopes and expectations, which the international community places in the Court.

Mr. President,

A year ago the whole world has joined together in an unprecedented example of solidarity. Today we are more aware of the source and the character of the threat. We are indeed more capable of dealing with it through providing for the implementation of relevant international instruments, taking steps to control the flow of finances and persons, state borders and the arms trade. Poland has joined the ongoing antiterrorist operation. Our soldiers are now deployed in Afghanistan, alongside their colleagues from other countries, and are doing their utmost to strengthen security there and help raise the country from rubble and ruin inflicted upon it by two decades of war and internal strife.

For us it is a natural obligation that stems from the symbolic signature, which we have placed on the Charter bringing this institution to life. But we cannot avoid asking ourselves a question – are we any closer today to fulfilling the ideals that we have set sail for half a century ago....?

We now have another chance to revitalize solidarity, work together for values that are priceless both to us, and generations to come. Let us all create the axis of good that will bring back the proper meaning to the term we are so proud of – The United Nations.

Thank you, Mr. President.

ANNEX:

United Nations Security Council Resolution 1540 (2004)

Adopted by the Security Council at its 4956th meeting, on 28 April 2004

The Security Council,

Affirming that proliferation of nuclear, chemical and biological weapons, as well as their means of delivery,* constitutes a threat to international peace and security,

Reaffirming, in this context, the Statement of its President adopted at the Council's meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), including the need for all Member States to fulfil their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Recalling also that the Statement underlined the need for all Member States to resolve peacefully in accordance with the Charter any problems in that context threatening or disrupting the maintenance of regional and global stability,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as provided for in the United Nations Charter,

Affirming its support for the multilateral treaties whose aim is to eliminate or prevent the proliferation of nuclear, chemical or biological weapons and the importance for all States parties to these treaties to implement them fully in order to promote international stability,

Welcoming efforts in this context by multilateral arrangements which contribute to non-proliferation, *Affirming* that prevention of proliferation of nuclear,

chemical and biological weapons should not hamper international cooperation in materials, equipment and technology for peaceful purposes while goals of peaceful utilization should not be used as a cover for proliferation,

Gravely concerned by the threat of terrorism and the risk that non-State actors* such as those identified in the United Nations list established and maintained by the Committee established under Security Council Resolution 1267 and those to whom Resolution 1373 applies, may acquire, develop, traffic in or use nuclear, chemical and biological weapons and their means of delivery,

Gravely concerned by the threat of illicit trafficking in nuclear, chemical, or biological weapons and their means of delivery, and related materials,* which adds a new dimension to the issue of proliferation of such weapons and also poses a threat to international peace and security,

Recognizing the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security,

Recognizing that most States have undertaken binding legal obligations under treaties to which they are parties, or have made other commitments aimed at preventing the proliferation of nuclear, chemical or biological weapons, and have taken effective measures to account for, secure and physically protect sensitive materials, such as those required by the Convention on the Physical Protection of Nuclear Materials and those recommended by the IAEA Code of Conduct on the Safety and Security of Radioactive Sources,

Recognizing further the urgent need for all States to take additional effective measures to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery,

Encouraging all Member States to implement fully the disarmament treaties and agreements to which they are party,

Reaffirming the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,

Determined to facilitate henceforth an effective response to global threats in the area of non-proliferation,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;
2. *Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;
3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:
 - (a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;
 - (b) Develop and maintain appropriate effective physical protection measures;
 - (c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

4. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, for a period of no longer than two years, a Committee of the Security Council, consisting of all members of the Council, which will, calling as appropriate on other expertise, report to the Security Council for its examination, on the implementation of this Resolution, and to this end calls upon States to present a first report no later than six months from the adoption of this Resolution to the Committee on steps they have taken or intend to take to implement this Resolution;
5. *Decides* that none of the obligations set forth in this Resolution shall be interpreted so as to conflict with or alter the rights and obligations of State Parties to the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention or alter the responsibilities of the International Atomic Energy Agency or the Organization for the Prohibition of Chemical Weapons;
6. *Recognizes* the utility in implementing this Resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;
7. *Recognizes* that some States may require assistance in implementing the provisions of this Resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

8. *Calls upon all States:*

- (a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;
- (b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral nonproliferation treaties;
- (c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;
- (d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

9. *Calls upon* all States to promote dialogue and cooperation on nonproliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

10. Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

11. *Expresses* its intention to monitor closely the implementation of this Resolution and, at the appropriate level, to take further decisions which may be required to this end;

12. *Decides* to remain seized of the matter.

* Definitions for the purpose of this Resolution only:

- Means of delivery: missiles, rockets and other unmanned systems capable of delivering nuclear, chemical, or biological weapons, that are specially designed for such use.
- Non-State actor: individual or entity, not acting under the lawful authority of any State in conducting activities which come within the scope of this Resolution.
- Related materials: materials, equipment and technology covered by relevant multilateral treaties and arrangements, or included on national control lists, which could be used for the design, development, production or use of nuclear, chemical and biological weapons and their means of delivery.

III. DOCUMENTS ON POLAND'S INTERNATIONAL NON-PROLIFERATION ACTIVITIES

1) Poland in the Cracow Initiative – Proliferation Security Initiative (PSI)

Poland was among the first group of countries invited to the PSI in May 2003 (namely: Germany, Australia, Spain, France, Italy, Japan, Netherlands, Portugal and the United Kingdom).

The participation of Poland in PSI is a visible confirmation of great importance Poland attaches to effective non-proliferation regime as an essential element of international peace and security.

Poland considers the Initiative as an important element in building an effective mechanism to prevent and counter proliferation of Weapons of Mass Destruction, their means of production and delivery. Initiative serves as an important tool in accommodating recent non-proliferation mechanisms and structures to new security threats and challenges.

During the first year of Poland's participation to the PSI the internal system of cooperation on the PSI-related issues was created. The main governmental agencies were involved in the process of preparing the Poland's position on Initiative. The appropriate steps were also taken in order to promote the aims and objectives of the Initiative. Therefore, the Information Meeting for Central and Eastern European States (Warsaw, 12 January 2004) was an element of our outreach activity.

Organization of the first ground interdiction exercise in April 2004 became another proof of our active stand on PSI. It has also served as another tool for promoting the Initiative in the region. Some countries of the Central Europe took active part in this Exercise.

This short brief should serve as a comprehensive guide to the Poland's position on Cracow Initiative – PSI and our activity in this regard.

Information meeting for the Countries of Central and Eastern Europe on the Proliferation Security Initiative, Warsaw, 12 January 2004

The first information meeting for the Countries of Central and Eastern Europe on the Proliferation Security Initiative that was held in Warsaw on 12 January 2004. The aim of the meeting was to present the objectives and development of the Initiative.

The representatives of the following countries of the region attended: Albania, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Macedonia, Moldova, Romania, Serbia and Montenegro, Slovakia, Slovenia and Ukraine. All representatives of the PSI countries (Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, UK and USA) were also present at the meeting.

The meeting was opened by Prof. Adam Daniel Rotfeld, Secretary of State in the Ministry of Foreign Affairs of the Republic of Poland.

Minister Rotfeld stressed, inter alia: "WMD-related materials, technologies, means of delivery and expertise are more accessible today than ever. Globalisation and the liberalisation of trade, which fuels economic growth, creates also more opportunities for countries or subjects of concern to seek WMD. (...) Unfortunately, threats and challenges of today are responded by the approaches and institutions deeply rooted in the past and dominated by the reasoning relevant to the Cold War reality. The key priority as we want to build an effective non-proliferation regime for today and tomorrow should therefore be to adapt the existing structures, instruments, and procedures to the challenges of the new security environment.

Therefore, Poland supports the strengthening of the multilateral disarmament and non-proliferation

regime through the effective implementation and verification of Weapons of Mass Destruction treaties, through strengthening the export controls regimes, and through maintaining national export controls and enforcement tools".

The speakers included also Mrs. Susan F. Burk, Acting Assistant Secretary for Non-proliferation, US Department of State.

The participants of the meeting were informed about development of the PSI and the position of Poland on issues of non-proliferation. Two case studies were presented by the Polish authorities: on interdiction operations at the Baltic Sea and ground interdiction.

The participants expressed opinions that this first meeting would help to establish a more regular dialog and promote a firm commitment to enhance the effectiveness of non-proliferation efforts, including the PSI's Statement of Interdiction Principles.

"Safe Borders" Ground Interdiction Exercise, Wrocław, 19 – 21 April 2004

In developing the interdiction potential Poland conducted the First PSI Ground Interdiction Exercise. The following countries took part in the exercise: Bulgaria, Czech Republic, Germany, Hungary, Lithuania, Poland, Romania and USA. Australia, Italy, Japan, Netherlands, Portugal and Spain also attended the exercise. Except for the countries mentioned above, representatives of the following countries took part in a Post – Exercise Meeting: Belarus, Croatia, Finland, France, Ireland, Latvia, Malta, Russian Federation, Serbia and Montenegro, Turkey and Ukraine.

The objectives of the exercise, that was divided into Table Top Exercise and Ground Interdiction Exercise, were to review law enforcement, custom and border control procedures related to the illegal flow of shipments of dual – use chemical precursors and other WMD – related equipment and supplies moved through border points, the examination of procedures for co-ordination among countries when these items move across borders, to uncover shortfalls in the procedures and recommend ways these procedures can be revised, strengthened and improved. The exercise confirmed the ability to conduct common interdiction operations.

The ground interdiction exercise was based on pre – arranged scenario. It provided for an existence of a Bad Guys Company (BGC), which operated in CEE region and was going to sell chemical precursors and equipment necessary to make chemical weapons for an unknown end – user. During the Table Top Exercise participants had a chance to discuss procedures applicable to this scenario in their countries as well as review information sharing arrangements. The Ground Interdiction Exercise allowed to present the effectiveness of Polish special services (Border Guard and Internal Security Service). It also presented the active involvement that Poland takes in non – proliferation efforts and hopefully allowed to convince other like-minded countries of the region to support PSI Interdiction Principles and activities conducted in the Initiative's framework.

The Participants confirmed the crucial importance of information exchange and efficiency of fast communication channels. In this context, it has to be stressed that all participating countries declared that they possess legal means to stop/interdict suspicious cargoes, such as catch-all clause and criminalisation of WMD-proliferation activities.

During the Post-Exercise meeting national interdiction procedures were presented and discussed. Participating countries declared readiness and capabilities (operational and prosecutorial) to conduct interdiction operations when and where the situation arises, and demonstrated participant's strong resolve and commitment to stem the flow of WMD. Crucial importance was given to ensuring effective information exchange and efficiency of fast communication channels. Information Exchange should be Sectoral (eg. Customs to Customs, Intelligence to Intelligence), Intersectoral: via diplomatic and other governmental channels, and Internal (domestic level). Discussion revealed that different governmental institutions were responsible for coordinating and conducting PSI activities in participating countries. Therefore importance of getting precise information on national PSI responsibilities (points of contact) was raised.

New European Union members stressed that joining EU what improved access to information on forwarding activities, improved their capabilities to respond to illegal shipments and transports.

Future of the Polish engagement in the PSI

We are going to maintain Poland's active engagement in the development and implementation of Cracow Initiative. We consider our participation in this Initiative as an important element of Polish policy in the area of international security.

Taking the above into account main areas of Poland's interest in this regard will further include:

- Maintaining a leading role in the region of Central and Eastern Europe (point of reference), by promoting regional implementation of Initiatives goals, conducting bilateral meetings and co-organizing exercises;
- Furthering and promoting the results of the First Anniversary PSI Meeting in Kraków. We promote the new name of PSI – the Cracow Initiative. An idea to continue Cracow Process (periodical meetings gathering all countries supporting Initiative) could be considered.
- Building internal mechanism of our participation in the Initiative (inter-agency mechanism of cooperation).

Chairman's Statement at the First Anniversary PSI Meeting (Cracow, 31 May – 1 June 2004)

The First Anniversary Proliferation Security Initiative (the PSI) Meeting took place in Kraków, on 31 May – 1 June 2004. The Meeting was to commemorate the first anniversary of launching the Initiative by the US President, George W. Bush in his speech at the Wawel Royal Castle in Kraków, on 31 May 2003. Thus, the Proliferation Security Initiative will also be known as the Cracow Initiative.

The meeting brought together senior representatives from over 60 countries. The participation of a broad representation of countries across the globe in the Anniversary Meeting confirms the growing awareness of the danger of proliferation of Weapons of Mass Destruction, related materials and their means of delivery. It also highlights the worldwide support of the PSI and its Statement of Interdiction Principles.

The meeting was conducted under the patronage of Aleksander Kwaśniewski, President of the Republic of Poland.

During the meeting the Addresses by the President of the Republic of Poland, Aleksander Kwaśniewski

and President of the United States of America, George W. Bush, were transmitted.

The aims of the meeting included emphasising the PSI as a global initiative, further development of international support for the aims and objectives of the PSI, and promotion of broad international co-operation and participation in PSI activities. The Cracow Initiative is not about structure and organisation, but operation and cooperation.

During one year the Proliferation Security Initiative has been transformed from a vision into an active network of partnership and practical cooperation. Common principles have been defined. Interdiction capabilities developed and tested. Regional activities undertaken.

During the meeting, a series of presentations on the nature of PSI, its prospects, character, future development and outreach efforts were made. A special emphasise was made on the extensive exercise program where many countries have actively participated.

It was stressed that the Proliferation Security Initiative is an important element in responding to the growing challenge posed by the proliferation of Weapons of Mass Destruction (WMD), their delivery systems, and related materials to or from states and non – state actors worldwide. It was further stressed that the PSI activities had to be consistent with national and international law and frameworks.

The PSI builds on efforts by the international community to prevent the proliferation of WMD, their delivery systems or related materials and complements existing treaties and regimes. It is consistent with newly adopted United Nation's Security Council Resolution 1540 (2004) of 28 April 2004. The UN Security Council Resolution states that the Council is *"gravely concerned by the threat of illicit trafficking in nuclear, chemical or biological weapons and their means of delivery, and related materials"*. It calls upon all states *"to take co-operative actions to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials"*.

The transparent nature of the PSI activities was reiterated and the contributions from countries that

share PSI concerns, principles and goals were welcomed. An emphasis was made that the PSI is a global endeavour with an inclusive nature. It relies on the widest possible co-operation between states around the world. This meeting showed the willingness of strengthening and expanding this co-operation.

The meeting confirmed the importance of continued outreach efforts to build the PSI and make it harder for proliferators to engage in this deadly trade. States participating were welcomed to engage in such co-operation as well as to undertake national action to identify law enforcement authorities and other tools or assets that could be brought to bear against efforts to stop proliferation facilitators.

2) Poland in the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction

Aide-Mémoire of the Government of the Republic of Poland (May 2003)

In the Initiative on Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, approved by the G-8 leaders on Kananaskis Summit, on June 27th, 2002 it was decided to support specific co-operation projects, initially in Russia, to address non-proliferation, disarmament, counter-terrorism and nuclear safety issues.

The Government of Poland endorses the Declarations approved by the G-8 leaders on Kananaskis Summit, on June 27th, 2002 and expresses readiness to join Initiative on Global Partnership Against the Spread of Weapons and Materials of Mass Destruction. Subsequently the Government of Poland fully commits to common principles and guidelines of the G-8 Global Partnership.

As a practical confirmation of Polish non-proliferation policy and readiness to contribute to the Global Partnership, the Government of Poland has decided to join the international efforts to assist the Russian Federation in destruction of chemical weapons. The Agreement between the Government of the Republic of Poland and the Government of the Russian Federation on co-operation in the field of chemical weapons destruction was signed on

December 17th, 2002 (see Attachment 1 – text of the agreement). The Agreement concentrates on scientific and technical assistance the Polish Party can provide to the Russian Party through Polish entities. The Agreement introduces a new approach to the international assistance in destruction chemical weapons in the Russian Federation. The Agreement concentrates on the scientific and technological partnership and introduces commercial elements in the cooperation (see Attachment 2 – Project Description Sheet). The Polish Party will provide technical aid to the Russian Party, free of charge, in the form of performance of research projects, designing, manufacturing and delivery of specialised equipment and other material and technical resources.

In further development of the common principles and guidelines of the Global Partnership Poland has initiated the concept of the Polish-Russian Technological and Industrial Park in Tarnów, Poland (see Attachment 3 – Development of Polish – Russian Technological and Industrial Park in Tarnów, Poland). The concept develops further the co-operation with the Russian Federation in the field of destruction of chemical weapons based on Agreement signed at Warsaw on 17 December 2002.

The Polish-Russian Technological and Industrial Park will provide, in general, for development of common activities of Polish and Russian entities (including international) in promoting technical innovations, application of advanced technologies, mainly from Russia, exchanging scientific and technical staff, conducting of common research, training and development activities (R&D). The Park will provide an opportunity to present and market peaceful civilian work in international conditions. Through the Park scientists and engineers will receive training in business, research, marketing, quality control/quality assurance and production standards, foreign languages and intellectual property issues. The Park will create a place for promoting non-proliferation norms and modern standards of business through organisation of international conferences, workshops on research and commercialisation activities, promotion of peaceful use of chemistry.

It is to be stressed that the Polish – Russian Agreement and the concept of the Technological Park fully comply with the G8 Global Partnership

Principles. They meet the Global Partnership both with regard to its subject matter (chemical weapons destruction in Russia and employment of former weapons scientists and engineers) and to its terms (full verification by authorised bodies, environmental protection concerns, exemptions from duties and taxes).

The Polish – Russian Agreement and the concept of the Polish–Russian Technological and Industrial Park at Tarnów, Poland, meet the following Guidelines of the Global Partnership:

- 1) effective monitoring, auditing and transparency measures and procedures to confirm work performance, to account for the funds expended and to provide for adequate access to work sites;
- 2) the implementation projects will be executed in an environmentally sound manner and will maintain the highest appropriate level of safety;
- 3) Each project will be accompanied by clearly defined milestones and tasks;
- 4) The material, equipment, technology, services and expertise provided will be solely for peaceful purposes and, unless otherwise agreed, will be used only for the purposes of implementing the projects and will not be transferred.
- 5) The Russian side ensures that the support provided will be considered free technical assistance and will be exempt from taxes, duties, levies and other charges;
- 6) Provision of goods and services will be conducted in accordance with open international practices and tender laws and consistent with national security requirements;
- 7) The Russian side will take necessary steps to ensure that adequate liability protections from claims related to the co-operation will be provided for Polish participants;
- 8) Appropriate privileges and immunities will be provided for Polish representatives working on implementation projects;
- 9) The Parties agreed to ensure effective protection of sensitive information and intellectual property.

The Polish Government will seek financial assistance and other material support of the G8 Partners as well as other potential donors to expand and develop new projects in the field of chemical weapons destruction through the Polish – Russian Agreement. The Polish Government also hopes to receive financial assistance to develop and implement the concept of the Polish–Russian Technological and Industrial Park at Tarnów, Poland.

It has to be noted that the Agreement and the understandings reached with the Russian Party provide that other international donors both Governments and Non–Governmental Organisations may join the co-operation through the support programme of the Polish Party.

In order to intensify and facilitate co-operation in the further development of the Polish–Russian Agreement and the concept of the Park a draft Memorandum of Understanding regarding the assistance is attached to this Aide Mémoire.

Furthermore the Polish Government is ready to participate in the work of the G8 bodies involved in the implementation of the Global Partnership and to enter into bilateral co-operation with G8 Partners and other countries.

The participation of Poland in the G8 Global Partnership and promotion through it Polish proposals and approaches contained in the bilateral agreement with the Russian Federation and in the concept of Park, constitutes an important Polish foreign policy priority.

Warsaw, May 2003

Attachment 1

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF POLAND AND THE GOVERNMENT OF THE RUSSIAN FEDERATION ON CO-OPERATION IN THE FIELD OF CHEMICAL WEAPONS DESTRUCTION

The Government of the Republic of Poland and the Government of the Russian Federation, hereinafter called the Parties,

Supporting the aims and principles of the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris on January 13th, 1993, and hereinafter called the Convention,

Striving for further development and strengthening of co-operation in the implementation of the Convention, and in particular chemical weapons destruction,

Taking account of the intentions of the Polish Party to provide assistance to the Russian Party in the implementation of the special programme "Destruction of Chemical Weapons in the Russian Federation," hereinafter called the Programme,

Noting that other States Parties to the Convention have expressed their interest in providing aid to the Russian Federation with regard to the implementation of the Programme, in view of the importance and complexity of the tasks to be achieved and their high cost,

Bearing in mind that the destruction of chemical weapons is a complex task calling for significant resources and for expertise in science and technology,

Have agreed upon the following:

ARTICLE 1

In order to provide technical support to the Russian Party to set up chemical weapons destruction facilities within the Russian Federation, the Polish Party shall provide technical aid to the Russian Party free of charge in the form of performance of research projects, designing, manufacturing and delivery of specialised equipment and other material and technical resources, provision of materials and services.

ARTICLE 2

1. Specific projects defining the volume of deliveries, services and works and other terms of provision of technical support, in accordance with this Agreement, shall be laid down in implementation arrangements to be signed by the authorised bodies of the Parties.
2. During the first year of this Agreement, the Polish Party shall allocate the sum of PLN 400000 to carry out initial works related to the completion of the first project under the implementation arrangement.
3. Based on separate arrangements between the Parties, other international donors may also provide support in compliance with the objectives of this Agreement through the support programme of the Polish Party.

ARTICLE 3

1. The authorised bodies of the Parties appointed for the implementation of this Agreement are for the

Polish Party – the Ministry of Foreign Affairs of the Republic of Poland, for the Russian Party – the Russian Munitions Agency (Rosboyepripassy)

2. The authorised bodies shall enter into implementation arrangements that define the realisation of specific technical support projects.
3. The authorised bodies shall appoint their representatives for liaison and for the resolving of technical issues concerning the implementation of this Agreement, and shall inform each other in writing of the identity of such representatives.
4. The authorised bodies shall decide on their forms of co-operation and management of works for specific projects, and shall hold meetings of experts in Warsaw and in Moscow to resolve such issues, in accordance with the time table agreed upon by the Parties, at least two times a year.

ARTICLE 4

1. The authorised bodies shall provide the technical and other information necessary for the implementation of this Agreement.
2. Subject to its national laws, each of the Parties shall:
 - a) use all information released to it under this Agreement exclusively for the purposes specified in this Agreement,
 - b) should the need arise in the execution of this Agreement to obtain classified information, the Receiving Party shall guarantee its confidentiality and shall not permit its transfer to a third party without the written permission of the other Party. Classified information released in writing by one of the Parties shall be marked appropriately.

ARTICLE 5

1. Subject to their national laws, the Parties shall promptly issue cost-free visas to members of the working groups and to official representatives of their Authorised Bodies, sent to the territory of their States for stays that are connected with the implementation of this Agreement.
2. The Russian Party shall, in accordance with the legislation of the Russian Federation, provide assistance in the registration of representatives from the Authorised Body of the Polish Party

ARTICLE 6

1. Technical assistance between the Parties shall be granted only for purposes envisaged by this Agreement.

2. In compliance with the legislation of the Russian Federation, the Russian Party shall make every necessary effort to create the most favourable conditions for the implementation of this Agreement.
3. The Polish Party shall have the right to verify the proper use of technical support provided to the Russian Party for the purposes of this Agreement. The Russian Party shall ensure access to all types of documents that are necessary for this verification.

ARTICLE 7

1. Subject to the laws in force, the Russian Party shall exempt Polish and Russian contractors and subcontractors, engaged within the framework of this Agreement, from the payment of customs duties and other levies.
2. The right of ownership to all types of equipment and materials supplied by the Polish Party to the Russian Party and responsibility for them shall pass to the Russian Party, as agreed by the Parties.

ARTICLE 8

This Agreement shall not affect the rights and obligations of the Parties under other international agreements to which either the Republic of Poland or the Russian Federation is party.

ARTICLE 9

1. The Polish Party and its official representatives shall not incur any civil liability for death or injury or damage to property caused by any act or omission related to official duties carried out pursuant to the implementation of this Agreement or any other actions, except for causing harm as a result of:
 - a) wilful misconduct or gross negligence,
 - b) a road accident caused by a vehicle belonging to or operated by an official representative of the Polish Party where the damage is not recoverable under civil liability insurance.
2. The Russian Party shall not bring any claims against the Polish Party and its official representatives and shall not bring any court action or proceedings in relation to any act or omission, as set out in Paragraph 1 of this Article, relating to duties carried out in connection with the implementation this Agreement.
3. The Russian Party commits itself to settle claims which may be brought by third parties in cases mentioned in Paragraph 1 of this Article.

4. This article shall be without prejudice to the rights and obligations of contractors and agents under their contracts.
5. Nothing in this Article shall be construed as waiving any immunity which the Polish Party and the Russian Party may equally enjoy under international law with respect to claims that may be brought against either of the Parties.

ARTICLE 10

Any dispute arising out of this Agreement shall wherever possible be resolved through consultations between the Parties. Consultations shall take place not later than two months after one of the Parties has so requested.

ARTICLE 11

1. This Agreement may be amended by written consent between the Parties.
2. This Agreement shall enter into force on the date of its signing.
3. This Agreement shall remain in force until the completion of projects executed under its terms, and not later than by December 31st, 2005. The period of validity of this Agreement may be extended by written agreement between the Parties.
4. Upon expiry or termination of this Agreement the provisions of Article 5 and of Paragraph 3 Article 6 shall continue to be in force for another two years.

Done at Warsaw, 17 December, 2002

On behalf of	On behalf of
the Government of	the Government of
the Republic of Poland	the Russian Federation
Włodzimierz Cimoszewicz	Zinovy P. Pak
Minister of Foreign Affairs	Director General

Attachment 2

PROJECT DESCRIPTION SHEET

1. IDENTIFICATION OF THE PROJECT

1a. Project Title: co-operation between the Government of the Republic of Poland and the Government of the Russian Federation in the field of Chemical Weapons Destruction

1b. Domain covered: Chemical Weapons Convention, G8 Global Partnership

2. DESCRIPTION OF THE PROJECT

2a. Description of the project:

On 17 December 2002 in Warsaw Minister of Foreign Affairs of the Republic of Poland, Włodzimierz Cimoszewicz, and Director General of the Russian Munitions Agency, Prof. Zinoviy P.Pak, signed the agreement between the Government of the Republic of Poland and the Government of the Russian Federation on co-operation in the field of chemical weapons destruction.

The Agreement concentrates on scientific and technical assistance the Polish Party can provide to the Russian Federation through Polish entities.

The Polish Party will provide technical aid to the Russian Party free of charge in the form of performance of research projects, designing, manufacturing and delivery of specialised equipment and other material and technical resources, provision of materials and services.

According to preliminary arrangements Poland's support would have the form of participation in developing the technology and pilot installation for the resolution of reaction masses and sewage produced in the destruction process of lewisite.

Specific projects defining the volume of deliveries, services and works and other terms of provision of technical support, in accordance with this Agreement, shall be laid down in implementation arrangements to be signed by the authorised bodies of the Parties.

Based on separate arrangements between the Parties, other international donors may also provide support in compliance with the objectives of this

Agreement through the support programme of the Polish Party.

Objectives:

The assistance will facilitate and accelerate the fulfilment of the obligations that the Russian Federation has undertaken by acceding to the Chemical Weapons Convention.

The Agreement fulfils the aims and principles of the G8 Global Partnership.

The assistance is aimed to support the implementation of the Special Federal Programme on the destruction of chemical weapons stockpiles in the Russian Federation for the timely, safe and environmentally sound destruction of chemical weapons.

Duration:

The Agreement shall remain in force until the completion of projects executed under its terms, and not later than by December 31st, 2005. The period of validity of this Agreement may be extended by written agreement between the Parties.

Activities:

Providing technical aid to the Russian Party free of charge in the form of performance of research projects, designing, manufacturing and delivery of specialised equipment and other material and technical resources, provision of materials and services.

According to preliminary arrangements Poland's support would have the form of participation in developing the technology and pilot installation for the resolution of reaction masses and sewage produced in the destruction process of lewisite.

Results: *The parties established working groups and plan of work. The parties started common research work and preparations to carry out laboratory works and test.*

2b. Status and presentation of the Project:

The Parties agreed on the scope and the aim of the first implementation arrangement. The Implementation Arrangement was concluded on 19 December 2003.

The title of the first project is: Detoxification of reaction masses, including liquid waste established in the process of lewisite destruction

The project, its aims and tasks: The aim of this project is to develop a recycling technology for reactive

masses and liquid waste discharged in the process of lewisite destruction. The tasks of the projects include:

- to design and develop an experimental industrial installation for the recycling of reactive masses;
- to work out a proposal for the positioning of various industrial plants within the existing capacities of the Gorny chemical weapons destruction facility,

Project implementation plan includes:

- analysis of research and development experiences accumulated by Poland and Russia in the recycling of products yielded by the lewisite destruction process. Market research for the products of produced, namely arsenic;
- selection of operation directions.

The beginning of work: March 2003.

The work includes:

- laboratory testing of the recycling of reactive masses, established in in the destruction of lewisite;
- development of experimental industrial plant for recycling of reactive masses;
- designing of the installation for detoxification of reaction masses;
- construction of the installation at the Gorny destruction facility;
- assessment of possibilities and preparation of proposals for the deployment of various industrial plants within the existing capacities of the Gorny chemical weapons destruction facility;
- conduct of common research on the implementation of the results on the destruction of reaction masses in the destruction of toxic wastes containing arsenic.

3. FINANCING OF THE PROJECT

3a. Budget for the project (in Euros): The total cost of the Project will be around 61 millions euro. The exact amount of financial resources and the scope of works are under consideration of the Parties. The financial plan will be ready at the beginning of 2005.

3b. The Polish Party will finance the preparation of laboratories and conduct of laboratory works as well as the designing of the pilot installation for the destruction of the reaction masses. The Polish Party has allocated the sum of PLN 400.000 (circa 100.000 USD) to carry

out works related to the completion of the first project under the implementation arrangement. The implementation of the Agreement will be included in the Ministry's tasks and budget over the next few years. The Ministry's funds will guarantee its implementation at a minimum level.

The Polish Ministry of Science devoted additional amount of 150 000 USD to carry out the laboratory work and tests, including designing of pilot installation to destroy reaction masses.

3c. The Parties agreed to use the resources of the other international donors to finance the project of detoxification of reaction masses.

The implementation of the Agreement will generate financial benefits because of the engagement of other parties, both private and state, as well as international organisations. It should be stressed that the Agreement provides a framework for third party financing, both private, national and international (including the European Union).

3d. Nature of the financing: The Government of Poland will release financial resources directly to the Polish participant of the Project who is subcontractor and main partner of the Russian party .

4. COUNTERPARTS AND CONTACT POINTS

4a. POLISH SIDE:

Responsible and Lead Implementing Organisation:
Ministry of Foreign Affairs

Co-ordinator of the Agreement on behalf of the Polish Government

Contact point/person: Name: Krzysztof Paturej
Phone: (+4822) 523 93 06
Fax: (+4822) 523 99 39
e-mail: krzysztof.paturej@msz.gov.pl

5. PARTICIPATION OF OTHER INTERNATIONAL DONORS.

Based on separate arrangements between the Parties, other international donors may also provide support in compliance with the objectives of this Agreement through the support programme of the

Polish Party. The Polish and Russian Party agreed to involve other donors to participate in the common projects through Polish–Russian Agreement. The participation is open for Governments and Non–Governmental Organisations.

Attachment 3

Development of Polish–Russian Technological and Industrial Park in Tarnów, Poland

The concept of the Polish–Russian Technological and Industrial Park in Tarnów, Poland, develops further the co–operation with the Russian Federation in destruction of chemical weapons based on the agreement between the Government of Poland and the Government of Russian Federation on co–operation in destruction of chemical weapons. The Agreement was signed at Warsaw on 17 December 2002.

The Polish–Russian Technological and Industrial Park provides, in general, for development of common activities of Polish and Russian entities (including international) in promoting technical innovations, application of advanced technologies, mainly from Russia, exchanging scientific and technical staff, conducting of common research, training and development activities (R&D).

The concept of the Park meets one of the key G8 Global Partnership priorities, namely employment of former weapons scientists and engineers. The Park will provide an opportunity to present and market peaceful civilian work in international conditions. Through the Park scientists and engineers will receive training in business, research, marketing, quality control/quality assurance and production standards, foreign languages and intellectual property issues. The Park will create a place for promoting nonproliferation norms and modern standards of business through organisation of international conferences, workshops on research and commercialisation activities, promotion of peaceful use of chemistry.

The participation of Poland in the G8 Global Partnership and promotion through it Polish proposals and approaches contained in the bilateral agreement with the Russian Federation and in the concept of Park, constitutes an important Polish foreign policy priority.

The Technological and Industrial Park in Tarnow, Poland, will be initiated by Polish and Russian Parties, including *Russian Science Centre "Applied Chemistry"* in St. Petersburg and *Zakłady Azotowe w Tarnowie–Mościcach S.A. (Nitrogen Factory in Tarnow–Moscice Ltd.)*. The Park will function as the legal and commercial entity registered under Polish law. The main purpose of the Park will be to generate profits from common work of Polish, Russian and international partners at Tarnow, Poland.

For this purpose The Parties concluded on 16 April at Sankt Petersburg a Letter of Intent. The Letter confirms the desire of both Parties to develop relations in the area of peaceful use of chemistry and to establish the Park. The Parties specified the first Russian technologies to be developed and introduced in the Park. It was agreed that the Park would be open to other Parties and entities.

Zakłady Azotowe, as the initial Polish participant of the Park will provide highly competent research and technical staff, production capabilities, separate territory with labs, industrial installations, certification, normalisation and standardisation offices, constructions offices, sewage systems and water treatment plant operating in higher environment standards, plant sites.

The Russian partner will provide research and development capabilities and technologies as well as scientific and technical staff to operate both in Russia and at the Park in Tarnów.

It is expected that in a short period of time the Technological and Industrial Park will be a centre of international science and technical co–operation, scientific and technical exchange and training, elaboration, implementation into production and marketing to Western markets of new technologies, mainly from Russia.

The Park will create broad possibilities for the Russian entities to develop their presence in Poland, especially in the sphere of marketing new technologies and productions, to access, through the co–operation with the Polish entities, to Western partners and the European Union markets.

The concept of the Park include conduct of common activities by Polish, Russian and partners from

other countries, in industrial and commercial application of advanced Russian technologies, their implementation into production (certification, normalisation and standardisation to EU norms) and production of highly advanced products. The concept of the Park enables to combine Polish experiences in building the free-market economy and ability to function in the European Union with the Russian R&D capabilities and growing demand for the Russian technologies.

The Park could attract Western investors to conduct business with Russian companies in Poland, in accordance with European standards, without necessity to enter Russia, what may occurs potential, negative consequences. The idea of Park is in full conformity with EU policy of sustainable development. Therefore it is eligible for financial support from the European Union.

The total investment to establish and operate the technological and industrial Park at Tarnów is around 3 million dollars. This includes elaboration of business plan and feasibility study, preparation of the site at Tarnow, Poland, to international standards, preparation and conduct of the Park as the legal and organisational structure, organisation of bilateral meetings, training and workshops. This investment will allow implementation of first Russian modern technologies to raise financial resources for further functioning and operation of the Park.

Poland will seek international financial and material support to implement the concept of the Park.

3) United Nations Resoution on the Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction

First Committee 59 UNGA session
Resolution

The General Assembly,

Recalling its previous resolutions on the subject of chemical weapons, in particular resolution 58/52 of 8 December 2003, adopted without a vote, in which it noted with appreciation the ongoing work to achieve the objective and purpose of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction,

Determined to achieve the effective prohibition of the development, production, acquisition, transfer, stockpiling and use of chemical weapons and their destruction,

Noting with satisfaction that since the adoption of resolution 58/52, eight additional States have ratified the Convention or acceded to it, bringing the total number of States parties to the Convention to one hundred and sixty-six,

Reaffirming the importance of the outcome of the First Special Session of the Conference of the States Parties to Review the Operation of the Convention including the Political Declaration in which the States parties reaffirm their commitment to achieving the object and purpose of the Convention and the Final Report which addressed all aspects of the Convention and made important recommendations on its continued implementation;

1. *Emphasizes* that the universality of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction¹ is fundamental to the achievement of its objective and purpose, and acknowledges progress made on the implementation of the Action Plan for Universality of the Convention, and calls upon all States that have not yet done so to become parties to the Convention without delay;

2. *Underlines* that the Convention and its implementation contribute to enhancing international peace and security, and *emphasizes* that its full, universal and effective implementation will contribute further to that purpose by excluding completely, for the sake of all humankind, the possibility of the use of chemical weapons;
3. *Stresses* that the full and effective implementation of all provisions of the Convention is in itself an important contribution to the efforts of the United Nations in the global fight against terrorism in all its forms and manifestations;
4. *Stresses* the importance to the Convention that all possessors of chemical weapons, chemical weapons production facilities or chemical weapons development facilities, including previously declared possessor States, should be among the States parties to the Convention, and welcomes progress to that end;
5. *Notes* that the effective application of the verification system builds confidence in compliance with the Convention by States parties;
6. *Stresses* the importance of the Organization for the Prohibition of Chemical Weapons in verifying compliance with the provisions of the Convention as well as in promoting the timely and efficient accomplishment of all its objectives;
7. *Urges* all States parties to the Convention to meet in full and on time their obligations under the Convention and to support the Organization for the Prohibition of Chemical Weapons in its implementation activities;
8. *Reaffirms* the undertaking of the States parties to foster international cooperation for peaceful purposes in the field of chemical activities of the States parties and the importance of that cooperation and its contribution to the promotion of the Convention as a whole;
9. *Notes with appreciation* the ongoing work of the Organization for the Prohibition of Chemical Weapons to achieve the objective and purpose of the Convention, to ensure the full implementation of its provisions, including those for international verification of compliance with it, and to provide a forum for consultation and co-operation among States parties; and further notes with appreciation progress made on the implementation of the Action Plan on the Implementation of Article VII obligations;
10. *Welcomes* the co-operation between the United Nations and the Organization for the

Prohibition of Chemical Weapons within the framework of the Relationship Agreement between the United Nations and the Organization, in accordance with the provisions of the Convention;

11. *Decides* to include in the provisional agenda of its sixty session the item entitled "Implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction".

IV. APPENDIXES (LEGAL AND ADMINISTRATIVE FRAMEWORK FOR NON-PROLIFERATION POLICY AND RELATED ACTIVITIES IN POLAND)

Appendix I. Penal Code of 6 June 1997: Excerpt and Outline (Journal of Laws of the Republic of Poland of 1997, No. 88, item 553)

Art. 44. 1. The court shall impose the forfeiture of items directly derived from an offence, unless they are subject to return to the injured person or to another entity.

2. The court may decide on the forfeiture of the items, which served or were designed for committing the offence unless they are subject to the return to another entity.
3. If the forfeiture described in para. 2 shall not be applied, the court may impose a supplementary payment to the State Treasury.
4. In the event that the perpetrator has intentionally prevented the possibility of imposing the forfeiture of items specified in para. 1 or 2, the court may impose the obligation to pay a pecuniary equivalent of their value.
5. In the event that the conviction has pertained to an offence of violating a prohibition of production, possession or dealing in or transporting specific items, the court may decide on the forfeiture thereof.
6. If the items referred to in para. 2 or 5 are not the property of the perpetrator, the forfeiture may be decided by the court only in the cases provided for in law; in the case of co-ownership, the decision shall cover only the forfeiture of the share owned by the perpetrator, or the obligation to pay a pecuniary equivalent of its value.
7. Property which is the subject of forfeiture shall be transferred to the ownership of the State Treasury at the time the sentence becomes final and valid.

Art. 45. 1. If the perpetrator has obtained, even if indirectly, a financial benefit from the commission of an offence, the court may decree its forfeiture or the forfeiture of its equivalent. The forfeiture shall not be decreed, in part or in whole, if the benefit or

its equivalent is to be returned to the wronged person or to another entity.

2. In the case of sentencing a perpetrator referred to in **Art. 65** or a perpetrator who has obtained a substantial benefit from the commission of an offence, the court shall decree the forfeiture of the benefit obtained or its financial equivalent. The provision of para. 11, sentence two, shall apply accordingly.
3. The financial benefit subject to forfeiture, or its equivalent, shall become the property of the State Treasury at the time the judgement becomes final."

Outline of Art. 109 – 114 of the Penal Code

Art. 109 stipulates that the Polish penal law shall apply to Polish citizens who have committed an offence abroad.

Art. 110 stipulates that the Polish penal law shall apply to aliens who have committed abroad offence against the interests of the Republic of Poland, Polish citizen, Polish legal person or Polish organisational unit without legal personality. In accordance with Art. 110 the Polish Penal Law shall apply to aliens in the case of the commission abroad of an offence other than mentioned above, if, under the Polish Penal Law, such an offence is subject to a penalty exceeding 2 years of imprisonment, and the perpetrator remains within the territory of the Republic of Poland and where no decision on his extradition has been taken.

Art. 111 states that the liability for an act committed abroad is, however, subject to the condition that the liability for such an act is likewise recognised as an offence, by a law in force in the place of its commission (para. 1). If there are differences between the Polish Penal Law and the law in force in the place of commission, the court may take these dif-

ferences into account in favour in the perpetrator (para. 2). The condition provided for in para. 1 shall not apply to Polish public official who, while performing his duties abroad has committed an offence there in connection with performing his functions, nor to a person who committed an offence in a place not under the jurisdiction of any state authority.

Art. 112 provides that, notwithstanding the provisions in force in the place of the commission of the offence, the Polish penal law shall be applied to Polish citizen or alien in case of the commission of offence against the internal or external security of the Republic of Poland, offence against Polish offices or public officials; offence against essential economic interests of Poland, offence of false statement made before Polish office.

Art. 113 states that the Polish penal law shall be applied to Polish citizen or alien, with respect to whom no decision on extradition has been taken, in the case of the commission abroad of an offence which the Republic of Poland is obliged to prosecute under international agreements.

Art. 114 states that sentencing judgement rendered abroad shall not prejudice criminal proceedings for the same offence from being instituted before Polish court. Para. 2 of Art. 114 stipulates that the court shall credit to the penalty, imposed the period of imprisonment actually served abroad and the penalty there executed, taking into consideration the differences between these penalties. Furthermore, it is provided that the provision of para. 1 shall not apply when sentencing judgement rendered abroad has been transferred to be executed within the territory of the Republic of Poland, and also when the judgement rendered abroad considered as offence, with regard to which either a transfer of the prosecution or extradition from the territory of the Republic of Poland has occurred. Para. 4 of the said Art. stipulates that if a Polish citizen validly and finally sentenced by a court in a foreign country, has been transferred to execute the sentence in the territory of the Republic of Poland, the court shall determine, under Polish law, the legal qualification of the act, and the penalty to be executed or any other penal measure provided for in the Code; the basis for determination of the penalty or other measure subject to execution shall be provided by the sentencing judgement rendered by a court of a foreign country, penalty prescribed for such an act under

Polish law, period of actual imprisonment abroad, penalty or other measure executed there, and differences between these penalties considered to the favour of the sentenced person.

Art. 109–114 provide for liability of both Polish nationals and aliens under the Polish jurisdiction for crimes committed abroad. Of paramount significance in this case is **Art. 113** of the **Penal Code**, which introduces the principle of "universality" of criminal responsibility to the Polish criminal law. In accordance to this principle, the Polish Penal Law is applied to a Polish national or an alien, with respect to whom no decision on extradition has been taken, in the case of the commission abroad of an offence, which the Republic of Poland is obliged to prosecute under international agreements (these offences are also criminalised under the Polish Penal Law).

International agreements concluded by Poland, to which Art. 113 of the Penal Code refers, include all the agreements ratified by Poland, which are covered by **Art. 91** sections 1 and 2 of the Constitution of the Republic of Poland. They are incorporated to the domestic legal order and have to be taken into account by courts. The offences referred to in resolution 1373 (2001) are prosecutable, criminalised and extraditable offences under many international agreements, including anti-terrorist conventions and protocols, as well as internal legislation. Accordingly, the Polish courts are obliged to interpret the reference made in **Art. 113** as extending to offences referred to in the resolution, also taking into account that the resolution was adopted by the Security Council acting under Chapter VII of the Charter of the United Nations, which obviously forms part of the internal legal order of Poland.

Chapter XVI.

Crimes against peace, humanity and war crimes

Art. 120. A person, who uses the weapon of mass destruction prohibited by international law, shall be sentenced to imprisonment for the time not shorter than 10 years, for 25 years or for life.

Art. 121. 1. A person, who in contradiction to the prohibitions of the international law or provisions of law (statute), manufactures, collects, acquires, sells, stores, transports or transmits the weapons of mass destruction or develops them with the view to their manufacturing or use, shall be sentenced to imprisonment for 1 year up to 10 years.

2. The same penalty shall be applicable to a person, who allows the commitment of the act referred to in para. 1.

Chapter XVII.

Crimes against the Republic of Poland

Art. 134. A person, who commits attempt on the life of the President of the Republic of Poland, shall be sentenced to imprisonment for time not shorter than 12 years, for 25 years or for life.

Art. 136. 1. A person, who in the territory of the Republic of Poland commits an active assault against the head of foreign state or accredited chief of diplomatic mission of such a state or person entitled to similar protection in virtue of laws, agreements and generally accepted international custom, shall be sentenced to imprisonment for 3 months up to 5 years.

2. A person, who in the territory of the Republic of Poland commits an active assault against a person belonging to the personnel of the diplomatic mission of foreign state or consular official of foreign state, in connection with discharging by him of official functions, shall be sentenced to imprisonment for up to 3 years.

3. The penalty referred to in para. 2 shall be applicable to a person, who in the territory of the Republic of Poland publicly insults the person referred to in para. 1.

4. A person, who in the territory of the Republic of Poland publicly insults the person referred to in para. 2, shall be sentenced to fine, limitation of freedom or imprisonment for up to 1 year.

Chapter XVIII.

Crimes against defence

Art. 140. 1. A person, who with the view to diminishing the defence powers of the Republic of Poland commits violent assault against an unit of the Armed Forces of the Republic of Poland, destroys or damages object or facility with defence significance, shall be sentenced to imprisonment for up to 10 years.

2. If as a result of the act human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 2 up to 12 years.

3. A person, who makes preparations to commit crime referred to in para. 1, shall be sentenced to imprisonment for up to 3 years.

4. In the case concerning the crime referred to in para. 1–3 the court may rule seizure referred to in Art. 39 subpara. 4, also when, the objects do not constitute property of the perpetrator.

Chapter XIX.

Crimes against life and health

Art. 148. 1. A person, who kills shall be sentenced to imprisonment for the time not shorter than 8 years, for 25 years or for life.

2. A person, who kills:

- 1) with particular cruelty,
- 2) in connection with taking a hostage,
- 3) as a result of motivation that is worthy of particular condemnation,
- 4) using fire arms or explosive materials,

shall be sentenced to imprisonment for the time not shorter than 12 years, for 25 years or for life.

3. The penalty referred to in para. 2 shall be applicable to the person who kills more than one person or was legally convicted before for homicide.

Chapter XX.

Crimes against public security

Art. 163. 1. A person who causes event, which poses threat to life or health of many persons or to property at large scale, in form of:

- 1) fire,
- 2) destruction of a building, deluge, landslide, slip of rocks or snow,
- 3) explosion of explosive or flammable materials or other violent release of energy, proliferation of poisonous, toxic or blistering substances,
- 4) violent release of nuclear energy or release of ionising radiation,

shall be sentenced to imprisonment for 1 year up to 10 years.

2. The perpetrator acting unintentionally shall be sentenced to imprisonment for 3 months up to 5 years.

3. If as a result of the act referred to in para. 1 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 2 up to 12 years.

4. If as a result of the act referred to in para. 2 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 6 months up to 8 years.

Art. 164. 1. A person who causes direct threat of the event referred to in Art. 163.1, shall be sentenced to imprisonment for 6 months up to 8 years.

2. The perpetrator acting unintentionally, shall be sentenced to imprisonment for up to 3 years.

Art. 165. 1. A person who causes event, which poses threat to life or health of many persons or to property at large scale:

- 1) causing epidemiological threat or proliferation of contagious disease or epidemic,
- 2) manufacturing or introducing to trade substances harmful to health, food or other articles of common use or pharmaceutical means which do not meet quality requirements in force,
- 3) causing damage or immobilisation of facility of public use, in particular of facility supplying with water, light, heat, gas, or facility securing against common danger or used to its elimination,
- 4) disturbing, hindering or otherwise affecting automatic processing, collecting or transfer of information,
- 5) acting otherwise in especially dangerous circumstances,

shall be sentenced to imprisonment for 6 months up to 8 years.

2. The perpetrator acting unintentionally, shall be sentenced to imprisonment for up to 3 years.

3. If as a result of the act referred to in para. 1 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 2 years up to 12 years.

4. If as a result of the act referred to in para. 2 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 6 months up to 8 years.

Art. 166. 1. A person who uses ruse or violence against a person or threat of direct use of such violence, takes over the control of vessel or aircraft, shall be sentenced to imprisonment for 2 years up to 12 years.

2. A person who, acting in the manner referred to in para. 1, causes direct danger for life or health of many persons, shall be sentenced to imprisonment for time not shorter than 3 years.

3. If as a result of the act referred to in para. 2 human death or serious harm to health of many persons

is caused, the perpetrator shall be sentenced to imprisonment for the time not shorter than 5 years or for 25 years.

Art. 167. 1. A person, who places on vessel or aircraft facility or substance posing threat to safety of persons or property with significant value, shall be sentenced to imprisonment for 3 months up to 5 years.

2. The same penalty shall be applicable to a person who destroys, damages or makes unserviceable navigation instrument or hinders its operation, if it may pose threat to the safety of persons.

Art. 168. A person who makes preparations for the crime referred to in Art. 163. 1, Art. 165. 1, Art. 166. 1 or in Art. 167. 1, shall be sentenced to imprisonment for up to 3 years.

Art. 171. 1. A person who without required permission or in contravention of its conditions manufactures, processes, collects, possesses, uses or effects trade in explosive substance or instrument, radioactive material, facility releasing ionising radiation or other object or substance that may pose threat to life or health of many persons or property at large scale, shall be sentenced to imprisonment for 6 months up to 8 years.

2. The same penalty shall be applicable to the person, who in contravention of the obligation commits the act referred to in para. 1.

3. The same penalty shall be applicable to the person, who transfers the objects referred to in para. 1 to non-authorized person.

Art. 172. A person who hinders the action, undertaken with the view to preventing the danger to life or health of many persons or to property at large scale, shall be sentenced to imprisonment for 3 months up to 5 years.

Chapter XXI.

Crimes against safety of transportation

Art. 173. 1. A person who causes disaster in road, water or air transport posing threat to life or health of many persons or to property at large scale, shall be sentenced to imprisonment for one year up to 10 years.

2. The perpetrator acting unintentionally shall be sentenced to imprisonment for 3 months up to 5 years.

3. If as a result of the act referred to in para. 1 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 2 years up to 12 years.
4. If as a result of the act referred to in para. 2 human death or serious harm to health of many persons is caused, the perpetrator shall be sentenced for 6 months up to 8 years.

Art. 174. 1. A person who causes direct danger of disaster in road, water or air transport shall be sentenced to imprisonment for 6 months up to 8 years.
2. The perpetrator acting unintentionally, shall be sentenced to imprisonment for up to 3 years.

Art. 175. A person who makes preparations for the crime referred to in Art. 173. 1, shall be sentenced to imprisonment for up to 3 years.

Chapter XXXII.

Crimes against public order

- Art. 258.** 1. A person who participates in organised group or association, which aim is to commit crimes shall be sentenced to imprisonment for up to 3 years.
2. If the group or association referred to in para. 1 is of military nature the perpetrator shall be sentenced to imprisonment for 3 months up to 5 years.
 3. A person who establishes the group or association referred to in para. 1 or 2 or manages such a group or association shall be sentenced to imprisonment from 6 months up to 8 years.

Appendix II. Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping international peace and security (Journal of Laws of 2000, No. 119, item 1250, last amendments: 2 July 2004)

Chapter 1.

General Provisions

Art. 1. This Law regulates the principles governing external trade in strategic goods, technologies and services relevant to the national security, as well as for the maintenance of international peace and security, principles of control and recording of such a trade as well as responsibility for illegal trade in the said goods, technologies and services.

Art. 2. External trade, referred to in Art. 3 item 8 shall be prohibited by law, if the conditions and limitations set forth in this Law, provisions of other Laws and international agreements and other international obligations are not met.

Art. 3. The definitions used in the present Law shall have the following meaning:

- 1) dual use goods – the goods and technology, which may be used both for civilian and military purposes, determined in the list referred to in Art. 6 section 2 (1),
- 2) armaments – weapons, munitions, explosives, products, their parts and technologies determined in the list referred to in Art. 6 section 2 (2),
- 3) strategic goods – dual use goods and armaments,
- 4) Polish customs area – territory of the Republic of Poland,
- 5) exportation – activity consisting in the exportation of strategic goods from the Polish customs area, including re-exportation as well as their transfer, particularly by phone, fax and other electronic media,
- 6) importation – activity consisting in the introduction of strategic goods to the Polish customs area as well as their transfer, particularly by phone, fax and other electronic media,
- 7) transit – procedure set forth in Art. 97 para. 1 item 1 and 2 of the Law of 9 January 1997 – Customs Code (Journal of Laws No. 23, item 117, No. 64, item 40, No. 121, item 770, No. 157, item 1026, No. 160, item 1084, of 1998, No. 106, item 668, No. 160, item 1063, of 1999, No. 40, item 402, No. 72, item 802, of 2000, No. 22, item 269),
- 8) trade:
 - a) any transfer through the border of the Republic of Poland of strategic goods, caused in particular by exportation, importation, transit or conclusion of leasing, donation, loan, lease contracts, or contribution to a company,
 - b) intermediary service, trade consulting, assistance in the conclusion of contracts as well as participation in any form in the activities referred to in subpara. (a), also abroad,
- 9) entrepreneur – entrepreneur in the meaning of the provisions of the Law of 11 November 1999 – Business Activity Law (Journal of Laws No. 101, item 1178),
- 10) trade control organ – minister for economy,
- 11) consulted organs – minister for foreign affairs,

Minister for National Defence, minister for internal affairs, Chief of State Protection Office, Chairman of National Customs Office, Chairman of National Atomic Agency as well as National Customs Inspector.

Art. 4. Importation to the Polish customs area, exportation from the Polish customs area as well as transit through the Polish customs area of weapons and munitions by natural persons, for the purposes other than commercial and industrial ones shall be regulated by separate provisions of law.

Art. 5. To the issues not regulated in this Law the provisions of Administrative Proceedings Code shall apply, unless the present Law provides otherwise.
Chapter 2. Permits for trade in strategic goods

Art. 6. 1. The trade in strategic goods may be effected only on the basis and in accordance with the scope determined in the permit for exportation, importation or transit, as well as for intermediary services, trade advisory services, assistance in the conclusion of contracts and for participation in any form in the activities referred to in Art. 3 item 8 (a), hereinafter referred to as "the permit", subject to Art. 19 section 1.

2. Minister for economy, in agreement with the minister for foreign affairs and Minister for National Defence, taking into account the view of the Chief of State Protection Office shall determine in a regulation:

- 1) the list of dual use goods, for which trade the permit is required,
 - 2) list of armaments, for which trade the permit is required – taking into account, when preparing the said lists, the appropriate international lists.
3. The Council of Ministers shall determine in a regulation the list of countries, to which the exportation or transit by Polish customs area of strategic goods is prohibited or limited, taking into account:
- 1) important interest of the foreign policy of the Republic of Poland,
 - 2) factors of defence or security of the Republic of Poland,
 - 3) important economic interest of the Republic of Poland,
 - 4) obligations of the Republic of Poland resulting from the international agreements, including those related to the non-proliferation and control of strategic goods.
4. The entrepreneur shall apply for permit for exportation or intermediary services in the exportation of goods non mentioned in the lists referred to in section 2, if he knows or he has been informed that the exported goods will or may be used in total or in part for the purposes or in the circumstances referred to in Art. 10 section 1.

tation or intermediary services in the exportation of goods non mentioned in the lists referred to in section 2, if he knows or he has been informed that the exported goods will or may be used in total or in part for the purposes or in the circumstances referred to in Art. 10 section 1.

Art. 7. 1. The following permits shall be issued for the trade in dual use goods:

- 1) Individual permit – which covers particular dual use good or service concerning the said good as well as the country or countries with which the trade may be carried out by appropriate intermediary,
- 2) general permit – which covers the type or category of dual use goods, which may be subject of trade with one or more particular countries,
- 3) global permit – which covers the type of category of dual use good, and which may be subject to trade, without determining the country, to which such a trade may be effected.

2. In case of the trade in armaments or rendering of services only individual permits shall be issued.

Art. 8. 1. The minister for economy shall issue global and general permits in a regulation.

2. The permits referred to in section 1 may use entrepreneur who evidences the application for the period of at least 3 years of internal control and trade administration system, referred to in Art. 10 section 2, subject to Art. 50 section 2, as well as submits to the control organ declaration on the commencement of external trade in strategic goods.

Art. 9. 1. Individual permit shall be issued upon the request of entrepreneur.

2. Trade control organ shall be competent for the issuance of individual permits, subject to Art. 19 section 1.

3. The application for individual permit shall contain:

- 1) identification of the entrepreneur, its registered place of business and address,
- 2) number in entrepreneurs' register, referred to in separate provisions,
- 3) determination of type and scope of business activity carried out by entrepreneur,
- 4) identification of exporter or importer, their registered places of business and addresses,
- 5) identification of manufacturer and end user, their registered places of business and addresses,

- 6) determination of strategic goods or services, subject to external trade, their description, quantity and value,
 - 7) information on the manner of use of strategic goods by end user,
 - 8) determination of final destination country,
 - 9) declaration stating that entrepreneur will undertake all steps necessary so that the goods referred to in the application reach the end user and that he will inform the foreign importer that the modification of use or end user requires prior consent of Polish trade control organ,
 - 10) other data determined in the regulation issued on the basis of section 6.
4. The entrepreneur shall attach in particular to the application for individual permit for trade in strategic goods:
- 1) declaration that there are no circumstances in the trade referred to in Art. 10 section 1,
 - 2) copy of concession for activity related to the trade in explosives, weapons and munitions as well as products and technologies with military or law enforcement destination, referred to in the separate provisions,
 - 3) draft agreement concerning the said trade,
 - 4) copy of certificate referred to in Art. 11 section 4,
 - 5) importation certificate or end user declaration in case of exportation,
 - 6) other documents, which in the view of the entrepreneur may be relevant to the examination of the case.
5. The document made in foreign language shall be accompanied by its translation into Polish made by sworn translator.
6. Minister for economy shall determine, in a regulation:
- 1) other data, which should be contained in the application for individual permits,
 - 2) specimens of applications for individual permit for exportation, importation and transit of strategic goods, intermediary services, trade consultant services, assistance in the conclusion of contracts, as well as participation in the actions referred to in Art. 3 subpara. 8 (a),
 - 3) documents other than those mentioned in section 4 that should be attached to the application referred to in section 3,
 - 4) specimens of individual permits for the trade taking into account the types of goods and forms of the trade.

Art. 10. 1. Before the submission of the application

for individual permit the entrepreneur shall make sure that:

- 1) end user intends to use the armaments to infringe in the area human rights and fundamental freedoms,
 - 2) delivery of armaments poses threat to peace or otherwise contributes to the destabilisation in the region,
 - 3) end destination country supports, facilitates or encourages terrorism or international crime,
 - 4) armaments may be used for other purpose than for the satisfaction of justified needs of defence and security of receiver's country.
2. For the purpose of the realisation of the obligation referred to in section 1, the entrepreneur shall create and apply internal control and management system related to the strategic goods trade, hereinafter referred to as "internal control system".
3. Should the entrepreneur, having shown the best diligence possible, not be able to find whether there appear circumstances referred to in section 1, it may request from the trade control organ the binding explanation concerning that issue. Trade control organ shall provide the entrepreneur with the said explanation, within 3 months as from the submission of the application. In justified cases that period may be extended to 6 months.

Art. 11. 1. Internal control system shall determine in particular the tasks of the enterprise organs, basic tasks for the posts related to the control and management of the trade, manner of co-operation of entrepreneur with governmental administration in this area, principles of staff recruitment, archiving of data, training, internal control, realisation of procurements.

2. Internal control system shall possess the certificate of consistency with requirements of international norms ISO 9000 and principles determined in section 1.
3. Certification referred to in section 2 shall be carried out by the authorised control units, which possess accreditation within the national accreditation system created on the basis of the Law of 28 April 2000 on the system of consistency evaluation, accreditation and amending certain laws (Journal of Laws No. 43, item 489).
4. Certificate of consistency with requirements, referred to in section 1 shall be issued by the units referred to in section 3.
5. Certificate referred to in section 4 shall be valid for 3 years.

6. Within the validity period of the certificate the authorised control units shall carry out at least 5 controls of consistency of functioning of internal control and management system of trade with the requirements referred to in section 1 and 2.
7. Minister for economy, shall determine in a regulation the list of certifying units authorised to carry out the certification and control of control and trade management system, among the accredited units in national accreditation system.

Art. 12. 1. Trade control organ, having obtained the view of consulting organs, shall issue individual permit, having found that the requirements required for its issuance have been met.

2. The issuance of individual permit shall be effected through an administrative decision.
3. Consulting organs, when preparing their view, referred to in section 1, shall be entitled to request from the entrepreneur the information facilitating the verification of the data contained in the application for individual permit.
4. Before taking decision concerning individual permit trade control organ:
 - 1) shall require the entrepreneur to complete, within the specified period of time, the application with lacking certifying documentation, stating that the legal requirements necessary for the trade in strategic goods have been met,
 - 2) may effect trial verification of information contained in the application.
5. To the control referred to in section 4 (2) the provisions of Art. 29 section 4 and Art. 30 section 1 and 2 of the present Law shall apply accordingly.
6. The entrepreneur shall inform trade control organ any alterations concerning the data contained in the application within 14 days as from their creation.

Art. 13. When the entrepreneur knows or has justified basis to suspect that the strategic goods were or may be used in total or in part for the purposes and in the circumstances referred to in Art. 10 section 1, he shall take all the steps necessary to find the factual use of the said goods and inform the trade control organ thereon.

Art. 14. 1. Individual permit as well as the rights resulting therefrom shall be inalienable.

2. Individual permit for trade in strategic goods shall be the document significant for the purposes of customs clearance.

3. Original of individual permit shall be attached to customs declaration or application for issuance of customs destination.

4. Issuance of individual permit for exportation or transit as well as for the intermediary services in exportation or transit may be depending on the meeting of additional requirements and conditions determined by the trade control organ, and in particular on the submission by foreign end user of the declaration on the use of strategic goods or submission if international importation certificate.

5. Individual permit shall state the validity term thereof, not longer however than one year.

6. A fee shall be collected for the issuance of individual permit. It shall constitute the income of the state budget.

7. Minister for economy in consultation with the minister for public finances shall determine in a regulation the amount of fees for the issuance of individual permit. The fees shall be determined on the level reflecting costs actually incurred by trade control organ when issuing individual permit.

Art. 15. 1. Trade control organ shall refuse, through administrative decision, the trade permit if:

- 1) trade is in breach with the obligations of the Republic of Poland resulting from international treaties,
- 2) it is required by the important interest of foreign policy of the Republic of Poland,
- 3) it is required by factors of defence or security of the Republic of Poland,
- 4) it is required by important economic interest of the Republic of Poland,
- 5) entrepreneur does not guarantee that the trade would be carried out in accordance with the legal provisions.

2. Trade control organ shall refuse, through administrative decision, the permit for trade in strategic goods, if the said goods may be in total or in part used for illegal or inconsistent with the interest of the Republic of Poland implementation, production, exploitation, service, maintenance, storage, detection, identification or proliferation of mass destruction weapons and in particular of chemical, biological or nuclear weapons, as well as implementation, production, maintenance, storage of the means able to transfer such weapons.

Art. 16. Trade control organ may refuse, through administrative decision the individual permit if:

- 1) there is a risk of alteration of end user of destination of strategic goods,
- 2) the entrepreneur in its hitherto activity infringed the legal regulations concerning the trade in strategic goods.

Art. 17. 1. Trade control organ, taking into account the view of consulting organs, may at any time, through administrative decision, withdraw or modify individual permit if:

- 1) it is required by important interest of foreign policy of the Republic of Poland,
 - 2) it is required by the factors of defence and security of the Republic of Poland,
 - 3) it is required by important economic interest of the Republic of Poland,
 - 4) it is necessary for the implementation of international treaties to which the Republic of Poland is a party,
 - 5) there is a risk of alteration of end use or destination of strategic goods,
 - 6) the entrepreneur carries out the trade in the manner inconsistent with the conditions determined in the permit,
 - 7) the entrepreneur due to his fault, lost warrant of trade consistent with law.
2. The withdrawal or modification of individual permit caused by the entrepreneur shall be without compensation.

Art. 18. The entrepreneur, whose permit was withdrawn for the reasons, referred to in Art. 17 section 1 (6) may apply once again for the issuance of permit not earlier than after expiration of 3 years as from the day, on which the decision on withdrawal of permit became final.

Art. 19. 1. Transit of foreign dual use goods, which transport shall end outside the Polish customs area, requires the permit to be issued by the director of boundary customs office.

2. The permit referred to in section 1 shall be issued on the request of the carrier.
3. Minister for public finances in consultation with the minister for economy shall determine in a regulation the specimen of application referred to in section 2 and specimen of permit for transit of dual use goods.
4. The specimen of application and of permit referred to in section 3 shall contain in particular: the number of exportation license, country of origin of the goods, name of carrier, number of lad-

ing bill, name of exporter and its registered address, name of receiver and its registered address, name and full description of the goods or technology, control number, quantity and value, name of border crossing point, through which the goods will be introduced to the Polish customs area, declaration of the carrier that the goods covered by international control will be transported through the Polish customs area on the basis of exportation license from exporter's country to the indicated receiver in the same condition, in which it was introduced to the Polish customs area.

Art. 20. 1. Exportation, importation or transit of strategic goods may be effected in indicated customs offices.

2. Minister for public finances, in consultation with the minister for economy, shall determine in a regulation the customs offices, referred to in section 1, taking into account the assurance of proper control of exportation, importation and transit of strategic goods.

Art. 21. 1. There shall be a register, hereinafter referred to as "the register" of granted individual permits and of entrepreneurs, who met the conditions referred to in Art. 8 section 2.

2. The register shall be carried out by trade control organ.
3. The entry of individual permit to the register shall be made immediately after it has been granted. The entry of the entrepreneur shall be effected immediately after the submission by him of a declaration referred to in Art. 8 section 2.
4. Minister for economy shall determine in a regulation the manner, in which the register is carried out, taking into account in particular the types of granted permits as well as the quantity and value of strategic goods covered by the permit.

Chapter 3.

Importation Certificate and end user declaration

Art. 22. 1. When it is required by the competent authorities of the country of foreign exporter, trade control organ, upon request of entrepreneur, may issue importation certificate or confirm the end user declaration.

2. To the application for the issuance of importation certificate the provisions of Art. 9 section 3–5 shall apply accordingly.

3. Importation certificate as well as end user declaration shall be the documents to be shown to the competent authorities outside the Republic of Poland and shall certify the credibility of the importer and the control by competent organs of the Republic of Poland of transactions related to the importation into the Polish customs area of strategic goods.
4. A fee shall be collected for the issuance of importation certificate as well as the confirmation of end user declaration. It shall constitute the income of the state budget.
5. Minister for economy in consultation with the minister for public finances shall determine in a regulation the amount of fees for the issuance of importation certificate and confirmation of end user declaration. These fees shall be determined on the level reflecting the costs actually incurred by the trade control organ when issuing importation certificate and confirmation of end user declaration.
6. Trade control organ may refuse the importation certificate or refuse to confirm the end user declaration if it is not possible to confirm the facts referred to in section 3, due to the lack of warrant of legal trade in strategic goods or non-application by the entrepreneur of internal control system.
7. Minister for economy shall determine in a regulation specimen of importation certificate.
8. Specimen referred to in section 7 shall contain in particular: name of importer, name of exporter, their registered places of business and addresses, name and description of strategic goods, control number, quantity and value, description of final use of the strategic goods as well as the declaration that the importer:
 - 1) has pledged itself that it is going to introduce the goods specified in the certificate to the Polish customs area and to inform immediately the trade control organ on any modifications of the contract terms,
 - 2) has submitted the declaration that he is conscious that the re-exportation, modification of end user or declared final use of the goods require prior consent of the trade control organ,
 - 3) in consultation with end user has pledged himself to facilitate the control of consistency of use of goods with the conditions of permit to be carried out by trade control organ, with possible participation of the representatives of the authorities of country of exporter and at the place of their use during whole period while they are in the Polish customs area.

Art. 23. 1. For the purposes of the exportation of strategic goods, trade control organ shall request from the entrepreneur the submission of importation certificate or end user declaration confirmed by competent authorities of the country of foreign importer.

2. End user declaration shall be issued by foreign end user and shall contain the data required by trade control organ.
3. Declaration referred to in section 2 shall be also confirmed by foreign importer and competent authorities of final destination country.
4. Declaration referred to in section 2 shall contain in particular:
 - 1) determination of final destination country,
 - 2) name and address of foreign end user,
 - 3) determination of strategic goods, its description, quantity and value,
 - 4) description of final use of strategic goods,
 - 5) indication of intermediary receivers and purchasers,
 - 6) obligation not to transfer the strategic goods to any other receiver without prior consent of trade control organ.

Art. 24. 1. Entrepreneur who has obtained importation certificate, shall, within 30 days as from the clearance of strategic goods, apply to the director of customs office competent for the registered place of business of end user of the said goods for the issuance of certificate confirming that the goods covered by the said certificate have been actually and in the manner consistent with the legal regulations introduced to the Polish customs area. It shall be hereinafter referred to as "delivery verification certificate".

2. To the issuance of delivery verification certificate the provisions of Chapter VII of Administrative Proceedings Code shall apply accordingly.
3. The entrepreneur shall cover the costs incurred by customs office during the proceedings leading to the issuance of delivery verification certificate.
4. Minister for economy, taking into account the view of the Chairman of National Customs Office shall determine in a regulation the specimen of delivery verification certificate and manner of registration of issued certificates.
5. Specimen of delivery verification certificate shall contain in particular: name of importer, name of exporter, their registered places of business and addresses, name and description of goods or

technology, control number, quantity and value, description of end use of the goods or technology, SAD number, number of bill of lading, bill of consignment or other document confirming the importation of goods or technologies and confirmation that the importer has submitted credible evidence confirming the delivery and introduced the goods or technologies mentioned in the certificate to the Republic of Poland, in accordance with the laws in force.

6. In case of exportation of strategic goods, trade control organ may request from the entrepreneur the submission of delivery verification certificate, issued by competent authorities of the importer's country.

Chapter 4.

Recording of trade in strategic goods and information concerning that trade

Art. 25. 1. The entrepreneur effecting trade in strategic goods shall record the said trade.

2. Minister for economy shall determine in a regulation manner of such recording, referred to in section 1, taking into account the conditions to be met by internal control system.

Art. 26. 1. The entrepreneur effecting trade within general and global permits shall submit to trade control organ at least once per 6 months, the information on the realisation of the said trade.

2. Minister for economy shall determine in a regulation the scope of information referred to in section 1, covering in particular: quantity and value of goods, determination of country with which the said trade is carried out, names of importer, exporter, their registered places of business and addresses, indication of indirect receivers and purchasers.

Art. 27. Upon request of consulting organs trade control organ shall submit to the said organs the information on the realisation of trade in strategic goods.

Chapter 5.

Trade control

Art. 28. 1. The trade shall be subject to control.

2. The control shall include in particular:

- 1) observance of the consistency of trade with the

permit, including verification of the transaction after it is done,

- 2) operation of internal control system,
- 3) correctness of recording referred to in Art. 25.
3. The control shall be carried out by trade control organ, with the assistance of the organs referred to in Art. 29 section 2.
4. Trade control organ may request the control to be made by other competent state control organ.

Art. 29. 1. To the control referred to in Art. 28 section 1 trade control organ may nominate control team, hereinafter referred to as "the team".

2. On the request of the minister for economy, minister for foreign affairs, Minister for National Defence, minister for public finances, minister for interior, Chief of State Protection Office, Chairman of National Atomic Agency, Chairman of National Customs Office and General Customs Inspector, shall designate to the team employees, soldiers or employees of subjected or supervised organisational units. The minister for economy may nominate to the team the experts, upon their consent.
3. Trade control organ, when nominating the members of the team shall designate the director, who co-ordinates the control procedures as well as prepares post-control protocol.
4. Control activities are carried out on the basis of the authorisation for control issued by the trade control organ.
5. Minister for economy shall determine, in a regulation specimen of control authorisation. The specimen shall contain in particular: indication of person, type and number of identity document, validity date of authorisation document as well as the information that upon request of the authorisation owner who carries out control actions, the directors, members of management as well as the employees of controlled entrepreneurs shall give information and show documents.

Art. 30. 1. The members of the team shall be entitled in particular to:

- 1) Have access to the real estate, building, premises or their parts, where the entrepreneur carries out the business activity, on the days and within the hours in which it is or should be carried out,
- 2) request oral or written explanations, documents or other information carriers as well as submit data related to the object of the control.
2. Control actions shall be carried out in the pres-

ence of the controlled person, deputies of the controlled person or employed by him, and in case of absence of the said persons in the presence of the witness.

3. Post-control protocol shall be submitted by the team leader to the trade control organ.

Art. 31. 1. In case of incorrectness in the trade, trade control organ shall request the entrepreneur to restore the status consistent with the present Law within one month as from the delivery of the request.

2. Upon ineffective expiration of the period referred to in section 1 trade control organ shall withdraw, through administrative decision, individual permit. In case of global and general permits trade control organ shall issue administrative decision prohibiting to the entrepreneur the use the permit. The trade control organ shall immediately inform consulting organs on the issuance of the said decision.
3. In the case referred to in section 2 the entrepreneur may obtain subsequently the individual permit or use global or general permit not earlier than upon expiration of 3 years accordingly, as from the day on which the decision on the withdrawal of individual permit and the decision on the prohibition of use of general or global permit became final.

Art. 32. To the issues not regulated in this Chapter the provisions of the Law of 28 September 1991 on treasury control (Journal of Laws of 1999, No. 54, item 572, No. 83, item 931, and of 2000, No. 70, item 816) concerning control procedure shall apply. Chapter 6. Penal provisions and monetary penalties

Art. 33. 1. He who effects trade without permit, or even inadvertently, contrary to the conditions determined in the permit, shall be subject to imprisonment from one year to 10 years.

2. If the perpetrator, effecting trade contrary to the conditions determined in the permit Laws inadvertently and has restored the status referred to in Art. 31 section 1, shall be subject to fine, limitation of liberty or imprisoned up to 2 years.
3. The punishment referred to in section 1 shall apply to the perpetrator who committed the Law determined in section 1 or 2.
4. In case of sentence for the crime determined in sections 1–3 the court may decide on the seizure of strategic goods and of other objects used in or

destined for the perpetration of or resulting directly or indirectly from the crime, including financial means and securities, even if they are not the property of the perpetrator.

Art. 34. He who fails to carry out obligations and conditions referred to in Art. 24 section 1 or in Art. 26 section 1, shall be subject to fine.

Art. 35. He who impedes control referred to in Art. 28 section 1 shall be subject to fine.

Art. 36. The decision in the cases referred to in Art. 34 and 35 shall be made in accordance with the procedures determined in the Code on procedures in case of offences.

Art. 37. The entrepreneur who is not natural person, and who carries out trade without valid permit, shall be punished by the trade control organ with fine in amount of 200.000 PLN.

Art. 38. The entrepreneur who is not natural person and who carries out trade contrary to the conditions determined in the permit shall be punished by trade control organ in administrative decision with fine in amount up to 100 000 PLN.

Art. 39. The entrepreneur who is not natural person, and who fails to fulfil the obligations or conditions referred to in Art. 24 section 1 or Art. 26 section 1 shall be punished by trade control organ in administrative decision with fine in amount up to 50.000 PLN.

Art. 40. 1. Monetary penalty shall not be sentenced if from the day on which the basis for liability referred to in Art. 37–39 were found the period of 5 years has lapsed.

2. The sentenced monetary penalty shall not be collected upon expiration of 5 years as from the day on which the sentence became final.

Art. 41. 1. The period of payment of monetary penalty shall amount to 30 days as from the day on which the sentence became final.

2. Monetary penalty not regulated within the specified period shall be executed together with the interest for delay, in accordance with the procedure determined in the provisions on execution proceedings in administration.

Art. 42. If the payment of the monetary penalty within the period specified in Art. 41 section 1 limits considerably or impedes further realisation of business activity by the entrepreneur, trade control organ may, upon request of the entrepreneur, issue administrative decision on the postponement of payment period or division thereof into instalments, for the period not longer than one year.

Chapter 7.

Amendments to existing provisions

Art. 43. In the Law of 9 January 1997 Customs Code (Journal of Laws No. 157, item 1026, No. 160, item 1084, of 1998 No. 106 item 668, No. 160, item 1063, of 1999 No. 40, item 402, No. 72, item 802, as well as of 2000, No. 22 item 269) in Art. 14 para. 6a shall be replaced by the following: "para. 6a. To the permits referred to in para. 6 the provisions of Art. 17 item 20 of the Law of 11 December 1997 on the administration of external trade in goods and services (Journal of Laws of 1997 No. 157, item 1026, of 1999, No. 5 item 587, No. 101, item 1178) shall apply."

Art. 44. In the Law of 11 December 1997 on the administration of external trade in goods and services and on special trade (Journal of Laws of 1997 No. 157, item 1026, of 1999, No. 5 item 587, No. 101, item 1178) the following amendments shall be introduced:

- 1) in the title the words "as well as in special trade" shall be deleted,
- 2) in Art. 1 section 1 the words "as well as in special trade" shall be deleted,
- 3) item 3 in Art. 2 shall be deleted,
- 4) Chapters 4–6 shall be deleted,
- 5) Art. 55 shall be deleted.

Art. 45. In the Law of 10 September 1999 on some compensation agreements concluded in connection with contracts on delivery for the purposes of national defence and security (Journal of Laws No. 80, item 903) in Art. 3 item 5 shall be replaced by the following: 5) armaments or military equipment – shall mean armaments in the meaning of the Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and amending certain laws.

Art. 46. In the Law of 7 October 1999 on the support for industrial restructuring of defence potential and technical modernisation of the Armed Forces of the Republic of Poland (Journal of Laws No. 83, item 932) in Art. 4 item 6 shall be replaced by the following:

"6) armaments or military equipment – shall mean armaments in the meaning of the Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and amending certain laws.

Chapter 8.

Transitional and final provisions

Art. 47. The proceedings instituted on the basis of the provisions of the Laws referred to in Art. 44 and 51 and not finalised before the entry into force of this Law with final decision shall be cancelled.

Art. 48. 1. The permits for importation, exportation or transit of goods and technologies covered by the lists of goods and technologies subject to specific control issued on the basis of Art. 3 section 1 of the Law of 2 December 1993 on the principles of specific control of external trade in goods and technologies in connection with the international agreements and obligations (Journal of Laws No. 129, item 598, of 1996 No. 106, item 496, of 1997 No. 88, item 554, and No. 157, item 1026 as well as of 1999 No. 70 item 775, and No. 83, item 931) with the entry into force of the present Law shall become individual decisions in the meaning of Art. 7 section 1 item 1 and shall remain in force for the period for which they were issued, not longer however than until 31 December 2001.

2. The permits issued on the basis of Art. 38 section 1 of the Law of 11 December 1997 on the administration of external trade in goods and services and on special trade (Journal of Laws of 1997 No. 157, item 1026, of 1999, No. 5 item 587, No. 101, item 1178) within the scope related to the special trade, with the entry into force of the present Law shall become individual decisions in the meaning of Art. 7 section 2 and shall remain in force for the period for which they were issued, not longer however than until 31 December 2001.

Art. 49. Executive provisions concerning the lists of goods and technologies covered by specific control of external trade issued before the entry into force of the present Law on the basis of hitherto existing pro-

visions, shall remain in force until new executive provisions on the basis of the present Law are issued, not longer however than for 6 months as from the entry into force of the present Law.

Art. 50. 1. Until the entry into force of the provisions of Art. 9 section 1 and 4 and Art. 10 section 1 individual permits may be issued to the entrepreneurs who before the entry into force of the present Law have been entered to the register of entrepreneurs carrying out special external trade on the basis of the provisions of Art. 33 of the Law of 11 December 1997 on the administration of external trade in goods and services and on special trade as well as to those who submitted certificate referred to in Art. 11 section 4.
2. Before the entry into force of Art. 8 section 2 only individual permits shall be issued for the trade in dual use goods.

Art. 51. The Law of 2 December 1993 on the principles of specific control of external trade in goods and technologies in connection with the international agreements and obligations (Journal of Laws No. 129, item 598, of 1996 No. 106, item 496, of 1997 No. 88, item 554, and No. 157, item 1026 as well as of 1999 No. 70 item 775, and No. 83, item 931) shall terminate.

Art. 52. The present Law shall enter into force on 1 January 2001, except:

- 1) Art. 8 section 2, which shall enter into force after 3 years as from the publication of this Law,
- 2) Art. 9 section 4 item 1 and 4 and Art. 10 section 1, which shall enter into force on 1 January 2002.

Appendix III. Atomic Law of 29 November 2000 : Excerpts (Journal of Laws of 2001, No. 3, Item 18, No. 100, Item 1085 and No.154, Item 1800)

Chapter 2

Licences addressing nuclear safety and radiological protection issues

Article 4

1. Any practice involving exposures and concerning:
 - 1) manufacturing, processing, storage, disposal, transport or use of and trade in nuclear materials, radioactive sources, radioactive waste and spent nuclear fuel;
 - 2) construction, commissioning, experimental or steady state operation and decommissioning of nuclear facilities;

- 3) construction, operation, closure and decommissioning of radioactive waste repositories and spent nuclear fuel repositories, and construction and operation of storage facilities for spent nuclear fuel;
 - 4) manufacture, installation, use and maintenance of devices containing radioactive sources and trade in such devices;
 - 5) manufacture, purchase, commissioning and use of devices generating ionising radiation;
 - 6) commissioning of laboratories and workrooms using ionising radiation sources, including X-ray laboratories;
 - 7) deliberate addition of radioactive substances in the processes of manufacturing consumer and medicinal products and trade in such goods;
 - 8) deliberate administration of radioactive substances to humans and animals for medical or veterinary diagnostics, therapeutic purposes or for research;
 - shall require a licence or a notification from the viewpoint of nuclear safety and radiological protection, subject to Article 6(1).
2. Practices involving the addition of radioactive substances to foodstuffs, toys, personal jewellery or cosmetic products, as well as the import of such products into, and export from the territory controlled by Polish customs, shall be prohibited.

Article 5

1. Applications to issue a licence for practices referred to in Article 4(1) or the notification of such practices shall be submitted by the head of the organisational entity.
2. Licences shall be issued by or the notification shall be made to the President of the National Atomic Energy Agency, hereinafter referred to as "the Agency's President", subject to paragraph 3.
3. Licence for manufacturing, acquiring, commissioning and operating for medical purposes X-ray sets with radiation energy up to 300 keV (kilo electron-volt) shall be issued by the sanitary inspector of the Voivod (regional governor), or in the case of organisational entities subordinated to or supervised or established by the Minister for National Defence – by the military sanitary inspector.
4. The bodies referred to in paragraphs 2 and 3 shall establish and maintain a register of those organisational entities whose practices require at least a notification.

5. Decisions to withdraw a licence shall establish the method for ensuring safety of nuclear materials, ionising radiation sources, radioactive waste or spent nuclear fuel in the possession of the organisational entity.
6. In all matters not regulated by this Act and concerning the licences, the provisions of the Act of Parliament of 19.11.1999 on Business Enterprises (O.J. of 1999 No 101, Item 1178, and O.J. of 2000 No 86, Item 958 and No 114, Item 1193) shall apply.
7. Use for economic purposes of industrial waste containing natural radioactive isotopes shall be subject to the rules defined in the regulations on environmental protection.

Article 6

The Council of Ministers shall establish by regulations:

- 1) cases where practices referred to in Article 4(1) shall be exempted from obtaining a licence or from issuing a notification, and cases where such practices may be performed on the basis of a notification, by defining appropriate exemption criteria in the form of limiting values for radioactive isotopes total activity and radioactivity concentration;
- 2) documents required together with a licence application submitted for practices referred to in Article 4(1) or with the notification of such practices, which are necessary to confirm that the applicant fulfils the conditions satisfying nuclear safety and radiological protection requirements, taking into account specific characteristics of various practices as well as the actions of the authority issuing the licence or receiving the notification in the event that the content of such documents is not sufficient to prove that these conditions have been fulfilled;
- 3) requirements concerning natural radioactive isotope content in raw materials and in construction materials used in the buildings intended for humans and livestock and also in industrial waste used in the construction industry, as well as the control over the content of such isotopes.

Chapter 4

Nuclear Facilities

Article 34

1. Nuclear facilities shall include in particular:

- 1) nuclear power plants, thermal–electric power plants and heating plants equipped with nuclear power reactors,
- 2) research, experimental and other nuclear reactors,
- 3) facilities designed for manufacturing, processing, storage and disposal of nuclear materials and nuclear fuel
 - from the start of their construction until the completion of the decommissioning process.
2. Nuclear facilities shall be subject to physical protection.

Article 35

1. The obligation to fulfil the requirements of nuclear safety, radiological protection and physical protection of a nuclear facility during the stages of siting, design, construction, commissioning and test operation shall lie with the investor, whereas during the stages of regular operation or decommissioning, such responsibilities lie with the head of the operating organisation.
2. Independently from the investor's duties, the obligation to fulfil nuclear safety and radiological protection requirements shall be borne by the other participants in the investment process, according to the scope of their tasks.
3. During nuclear facility design, construction, commissioning and operation, all technical and organisational solutions should be applied that, in view of scientific and technological developments, are necessary to ensure that at all stages of the facility operation, the exposure of persons on the site or of other people, and the contamination of the environment will be as low as possible, when reasonably taking into account economic and social factors, and will not exceed dose limit values established in the regulations based on Article 25(1).

Article 36

The authority competent to decide on construction and development conditions on the site of a future nuclear facility, according to the Act of Parliament of 7 July 1994 on Land Use Planning (O.J. of 1999 No 15, Item 139, No 41, Item 412 and No 111, Item 1279 and of 2000 No 12, Item 136, No 109, Item 1157 and No 120, Item 1268) shall issue this decision after obtaining positive opinion from the Agency's President on nuclear safety and radiological protection matters.

Article 37

The Agency's President shall issue a licence for construction, commissioning and test operation of a nuclear facility at the investor's request, whereas the licence for regular operation and decommissioning shall be issued at the operating entity's request. The licence shall be a prerequisite in order to obtain permit for nuclear facility construction, utilisation and dismantling referred to in the Act of Parliament of 7 July 1994 – Construction Law (O.J. of 2000 No 106, Item 1126, No 109, Item 1157 and No 120, Item 1268).

Article 38

1. The Voivod (regional governor) shall establish a restricted use area surrounding the nuclear facility, referred to in the Act of Parliament of 27 April 2001 – Environmental Protection Law (O.J. of 2001, No.100, Item 627).
2. After consultation with the Agency's President, the minister competent in environmental matters, shall establish by regulations detailed rules for the creation of a restricted use area surrounding the nuclear facility, indicating relevant restrictions concerning its uses and in particular taking into account the site characteristics and conditions, possible accident situations and the distribution of ionising radiation doses at various distances from the facility.
3. The provisions of the Act referred to in paragraph 1 shall be applicable to cases relating to damage caused by the establishment of a restricted use area.

Article 39

The Agency's President shall issue an order decreasing the power or stopping the operation of a nuclear facility if, in his assessment, further operation of this facility shall endanger nuclear safety. A subsequent increase of power or start-up of the facility shall require the consent of the Agency's President.

Chapter 5

Nuclear Materials

Article 40

1. The head of the organisational entity shall be responsible for carrying out nuclear materials accounting and for ensuring the physical protection of nuclear materials referred to in the regulations based on Article 42(1) and 42(2).
2. The system of nuclear materials accountancy shall include:

- 1) an internal inventory register, systems of material accounting and controls of nuclear materials conducted in organisational entities engaged in activities involving nuclear materials,
- 2) the central accounting and control based on the structure of areas for nuclear materials inventory, hereinafter referred to as "material balance areas".
3. The central nuclear materials accounting and control shall be maintained by the Agency's President in co-operation with appropriate international organisations.

Article 41

1. Nuclear materials shall be subject to physical protection during their manufacturing, processing, storage, use, transport, disposal and trade.
2. The head of the organisational entity engaged in practices involving nuclear materials shall establish a physical protection system which, after the approval of the Agency's President, shall be agreed upon with the Chief of the Police Department of the appropriate voivodship.
3. The Agency's President shall conduct periodic controls of the system referred to in paragraph 2.

Article 42

The Council of Ministers shall establish by regulations:

- 1) nuclear materials subject to accountancy, the rules for maintaining the material balance areas and the procedures for maintaining central and internal accounting and control of nuclear materials, including the type of documentation and control performance frequency,
- 2) nuclear materials subject to physical protection and the types of organisational and technological undertakings in the field of physical protection, establishing nuclear material categories and physical protection levels for each category, as well as the procedures for control performance referred to in Article 41.3.

Chapter 7

Radioactive Waste and Spent Nuclear Fuel

Article 47

1. Radioactive waste shall be classified into three categories according to its activity level or surface dose rate: low, medium and high-level radioactive waste. These categories may be further subdivided into sub-categories according to the

half-life of radioactive isotopes contained in the waste, or according to its thermal power.

2. Disused (spent) sealed radioactive sources shall form an additional category of radioactive waste.
3. Spent sealed radioactive sources shall be classified into the following sub-categories of spent sealed radioactive sources according to the level of their activity: low, medium and high-level, which shall be further subdivided according to the half-life of contained radioactive isotopes into short-lived and long-lived sub-categories.

Article 48

1. Radioactive waste classification shall be performed by head of the organisational entity, on whose site the waste is present.
2. Radioactive waste classification may be performed by the Agency's President in cases of:
 - 1) discrepancies in waste classification performed by the head of the organisational entity on whose site the waste is present and the classification performed by the head of the organisational entity receiving the waste;
 - 2) evidence of irregularities in waste classification by head of the organisational entity on whose site the waste is present.

Article 49

1. Head of the organisational entity, on whose site the radioactive waste or spent nuclear fuel is present, shall be responsible for keeping inventory registers. Inventory registers shall be kept for each type of practice involving radioactive waste or spent nuclear fuel.
2. Radioactive waste containing nuclear materials and spent nuclear fuel shall be subject to physical protection.

Article 50

Radioactive waste and spent nuclear fuel shall be stored in conditions allowing their segregation and in a manner which ensures adequate protection of humans and the environment.

Article 51

The Council of Ministers shall establish by regulations:

- 1) a method to classify radioactive waste into categories and sub-categories, taking into account the criteria referred to in Article 47(1) and 47(3);
- 2) procedures for maintaining inventory registers and performing controls of radioactive wastes as

well as a standard inventory form, taking into account the procedures for maintaining common inventory registers for various practices involved in dealing with radioactive waste or with spent nuclear fuel, and the types of control activities,

- 3) conditions for storage of radioactive waste or spent nuclear fuel and the requirements to be met by the facilities, rooms and packaging designed for the storage of radioactive waste belonging to various categories, taking into account the state of matter and other physicochemical properties of the waste, as well as the requirements to be met by storage facilities for spent nuclear fuel.

Article 52

1. Liquid or gaseous radioactive waste generated as a result of practices referred to in Article 4(1), may be discharged into the environment provided that its radioactive concentration in the environment may be disregarded from the radiological protection point of view. The method for waste discharge and its permissible activity shall be specified in the licence.
2. Radioactive waste that has been treated or which do not require treatment, and spent nuclear fuel which will not be reprocessed, shall be disposed of in repositories.
3. Spent nuclear fuel intended for disposal shall be considered as high-level radioactive waste.
4. Radioactive waste shall be disposed of exclusively in solid form and packaged in a manner which ensures radiological safety for humans and the environment, ensuring heat transfer, prevention of critical mass formation and continuous control of these factors during the disposal and after repository closure.

Article 53

1. Radioactive waste repositories may be divided into near-surface and deep repositories.
2. By decision of the Agency's President, a radioactive waste repository may be declared as the National Radioactive Waste Repository.

Article 54

The authority which, according to the Act referred to in Article 36, is competent to issue decisions on the conditions for construction and development of the site intended for construction of a repository, shall issue such decision after obtaining positive opinion from the Agency's President from the viewpoint of nuclear safety, radiological protection and physical protection.

Article 55

The Council of Ministers shall establish by regulations:

- 1) radioactive waste categories and sub-categories which may be disposed of in specified types of repositories, taking into account the state of matter and physicochemical properties of the waste intended for disposal,
- 2) detailed requirements for specific types of repositories concerning siting, construction, operation and closure, taking into account natural phenomena, geological conditions and systems of control,
- 3) conditions which a repository must fulfil in order to be granted the status of National Radioactive Waste Repository, taking into account the type of repository, categories of radioactive waste and time during which waste can be admitted into the repository,
- 4) detailed requirements for radioactive waste preparation for disposal, including the types of packaging of the waste placed for disposal.

Article 56

1. Activities involved in dealing with radioactive waste and spent nuclear fuel shall be conducted by the enterprise of public utility referred to in Chapter 14.
2. Activities referred to in paragraph 1, with the exclusion of radioactive waste and spent nuclear fuel disposal and transport to the repository, may be conducted by some other organisational entity, provided that this organisational entity shall fulfil the requirements for nuclear safety and radiological protection and shall obtain the appropriate licence. In particular, the organisational entity in whose facility the radioactive waste or spent nuclear fuel was generated, may process and store them for the time specified in the licence.

Article 57

1. The "gmina" (commune) on whose territory the National Radioactive Waste Repository is sited, is qualified to receive an annual payment from the national budget:
 - 1) from the date on which the first shipment of waste is accepted for disposal until the date on which the decision to close the repository is made – which shall amount to 400% of the previous year's income from local real estate tax, increased proportionally to the rise in the retail and consumer services price index, established

according to the procedure provided in the Act of Parliament of 12 January 1991 on local taxes and duties (O.J. No 9, Item 31 and No 101, Item 444; of 1992 No 21, Item 86; of 1994 No 123, Item 600; of 1996 No 91, Item 409 and No 149, Item 704; of 1997 No 5, Item 24, No 107, Item 689, No 121, Item 770 and No 123, Item 780; of 1998 No 106, Item 668, No 150, Item 983 and No 160, Item 1058, and of 2000 No 88, Item 983, No 95, Item 1041 and No 122, Item 1315),

- 2) after the decision to close the repository has been made – which shall amount to 50% of the payment referred to in paragraph 1, for the period corresponding to the duration of operation of the repository.
2. The payment referred to in paragraph 1 shall be transferred to the commune from the national budget in equal quarterly instalments, not later than 14 days after the last month of a given quarter.
 3. The commune shall not be entitled to such a quarterly instalment if, due to the decisions of appropriate authorities of the commune or of the "powiat" (district) where the commune is located, during any period of the given quarter the admission of radioactive waste shipments into the repository was not possible.

Chapter 8

Transport of Nuclear Materials, Ionising Radiation Sources, Radioactive Waste and Spent Nuclear Fuel

Article 58

Nuclear materials shall be prepared for transport and transported in a manner which prevents the occurrence of a self-sustaining chain nuclear fission reaction and which complies with physical protection principles.

Article 59

In preparation for transport and during the transport of nuclear materials, ionising radiation sources, radioactive waste and spent nuclear fuel, one should take into account the risks that may result from their physicochemical properties and fulfil the conditions and requirements imposed on hazardous materials transport, established in other regulations.

Article 60

Exposure of individuals participating in the transport, including persons loading and unloading nuclear materials, ionising radiation sources,

radioactive waste and spent nuclear fuel, shall be subject to control and the doses received by these individuals shall not exceed the dose limits for occupationally exposed workers established in the regulations issued on the basis of Article 25(1).

Article 61

Conditions and requirements governing the on-site transport, within the site of the organisational entity engaged in manufacturing, processing, use, storage and disposal of nuclear materials, ionising radiation sources with the exception of devices generating ionising radiation, radioactive waste and spent nuclear fuel, shall be established by the Agency's President in the licence.

Article 62

1. Import into and export from the territory controlled by Polish customs of nuclear materials, radioactive sources and devices containing such sources, import of consumer goods emitting ionising radiation, as well as import and export of radioactive waste and spent nuclear fuel, shall be conducted on the basis of a licence for the performance of practices referred to in Article 4(1), subject to Article 4(2).
2. Import into, export from and transit through the territory controlled by Polish customs of radioactive waste and spent nuclear fuel shall require the consent of the Agency's President.
3. Export from the territory controlled by Polish customs and transit through this territory of radioactive waste and spent nuclear fuel shall be prohibited if the destination of such shipment lies south of 60° southern latitude.
4. The Council of Ministers shall establish by regulations:
 - 1) conditions governing import into, export from and transit through the territory controlled by Polish customs of nuclear materials, radioactive sources and equipment containing such sources,
 - 2) the basics for granting the consent referred to in paragraph 2, the procedure for applying for such consent and the standard document for this procedure.

Chapter 14

State-owned public utility "Radio-active Waste Management Plant"

Article 114

1. The State-owned public utility named "Radioactive

Waste Management Plant" located in Otwock-Świerk, hereinafter referred to as "the Plant", shall be established for conducting the activities involving radioactive waste management and spent nuclear fuel management, and – above all – aiming at ensuring permanent feasibility of radioactive waste and spent nuclear fuel disposal.

2. The Plant may also perform activities in the field of hazardous waste management referred to in the regulations governing waste, and other activities specified in the statute referred to in Article 121.

Article 115

1. The Plant shall be invested with legal personality.
2. Governmental bodies may undertake decisions concerning the Plant's activity only in the cases covered by this Act.

Article 116

1. Supervision over the Plant and the founder's functions shall be executed by the minister competent for economic affairs.
2. The minister competent for economic affairs shall control the Plant's activities and submit those activities to an annual evaluation, which he shall present to the Prime Minister not later than on 30 March of the following year.
3. Minister competent for economic affairs may establish a commission to evaluate the Plant's administration and to prepare conclusions resulting from this evaluation.
4. On the basis of the commission's conclusions, the minister competent for economic affairs may oblige the Plant's director to improve the Plant's administration or to submit and implement a corrective action program. Such program shall be approved by the minister competent for economic affairs.
5. The minister competent for economic affairs, upon finding that the Plant's director decision violates some law or regulation, shall order the suspension of the execution of the decision and shall oblige the Plant's director to modify or cancel this decision.
6. The Plant's director shall be entitled to appeal against the decisions taken by the minister competent for economic affairs, according to the rules and procedures established in the regulations governing state-owned enterprises.

Article 117

1. The Plant shall be managed and externally repre-

sented by the director, who shall constitute the Plant's official organ.

2. The Plant's director shall be nominated and recalled by the minister competent for economic affairs.
3. The director may nominate and recall the Plant's deputy directors and its agents, who shall act independently within their scope of competence.
4. Agents shall be granted their power of attorney in written form, otherwise it shall be considered null and void.
5. Power of attorney granting and revocation shall be entered into the register of state-owned enterprises, with the exception of powers of attorney for the performance of specific activities and for powers of attorney in legal proceedings.
6. Employee self-governing bodies shall not be active in the Plant.

Article 118

1. In business transactions the Plant shall act in its own name and on its own account.
2. The Plant shall collect payments for performed activities.
3. The sale and management of tangible fixed assets or of organised parts of the property shall be regulated by the regulations for state-owned enterprises.
4. Tangible fixed assets shall not be used for settlement of the Plant's monetary obligations.

Article 119

1. The Plant shall receive from the national budget an allocated subsidy for radioactive waste management and spent nuclear fuel management.
2. The amount of this subsidy shall be established in budgetary legislation, upon request of the minister competent for economical affairs.
3. The Plant's director shall submit to the minister competent for economic affairs the accounting for the disposal of the subsidy, according to the regulations based on Article 120(2).

Article 120

1. The Plant's finances shall be managed according to the rules for finance management in state-owned enterprises, except as otherwise provided in this Act.
2. The Council of Ministers shall establish by regulations accountability procedures for the subsidy referred to in Article 119(1), including the type of

documentation and the data required for such accounting procedures, the method for fixing the payments referred to in Article 118(2), together with the factors which should be taken into account while fixing the payments, the procedures and timing for issuing public announcements on such payments and detailed rules for the Plant's finances management, including financial reports and rules for choosing the experts for performing audits and the competent authority for final approval of the Plant's annual financial reports, procedures for disposal of property, financing of salaries and investments, and also the procedures for decision making on financial issues.

Article 121

1. The Plant's detailed tasks, organisational scheme, procedures for creating outer branch offices and their powers, internal control system and operating rules shall be established in the Plant's statute; additional tasks shall be specified taking into account the necessity for ensuring the implementation of the tasks for which the Plant has been created, the division of the Plant into the task and service departments, the scope of issues which shall not be delegated to outer branch offices.
2. The statute may provide for the establishment of advisory and opinion-making bodies for the Plant's director.
3. The Plant shall receive its statute in the form of a regulation issued by the minister competent for economic affairs.

Article 122

The provisions of the act of Parliament of 30 August 1996 on the commercialisation and privatisation of state-owned enterprises (O.J. No 118, Item 561 and No 156, Item 775; of 1997 No 32, Item 184, No 98, Item 603, No 106, Item 673, No 121, Item 770, No 137, Item 926 and No 141, Item 945; of 1998 No 106, Item 668; of 1999 No 40, Item 400 and No 101, Item 1178; of 2000 No 15, Item 180, No 26, Item 306, No 31, Item 383, No 60, Item 703, No 84< Item 948 and No 122, Item 1315) shall not be applicable to the Plant.

Chapter 15

Penal regulations

Article 123

1. A fine of an amount not exceeding five times the

average monthly pay in the national economy, calculated for three quarters of the year prior to the occurrence of the violation and published by the President of the Central Statistical Office on the basis of the act of Parliament of 26 July 1991 on personal income tax (O.J. of 2000, No 14 Item 176, No 22 Item 270, No 60 Item 703, No 70 Item 816, No 104, Item 1104, No 117, Item 1228 and No 122, Item 1324), shall be imposed on the head of the organisational entity, who:

- 1) without the required licence, or in violation of the conditions attached to such a licence, engages in the activities referred to in Article 4 (1), paragraphs 2 to 8, or in the import or export referred to in Article 62(1), or employs workers who do not possess the qualifications or skills established in this Act,
 - 2) bearing the responsibility for nuclear safety and radiological protection, allows the exposure of a worker or some other individual in violation of the provisions in Article 14(1) concerning the provisions of Article 25(1), and of Article 19(1) and Article 20, paragraphs 1 to 3,
 - 3) does not fulfil his responsibilities concerning nuclear safety and radiological protection in work involving nuclear materials, ionising radiation sources, radioactive waste and spent nuclear fuel and during the preparation of those materials for transport and disposal,
 - 4) loses or leaves without proper protection nuclear material, ionising radiation source, radioactive waste or spent nuclear fuel consigned to his care,
 - 5) does not fulfil the requirements concerning dosimetric control or the inventory of nuclear materials, ionising radioactive sources, radioactive waste and spent nuclear fuel,
 - 6) prevents or impedes the conduct of regulatory inspection concerning nuclear safety or radiological protection, or refuses to give information or gives false information or conceals the truth in matters concerning nuclear safety and radiological protection.
2. A fine of an amount not twice the average monthly pay in the national economy, calculated for the year prior to the occurrence of the violation and published by the President of Central Statistical Office basing on the act referred to in paragraph 1, shall be imposed on the nuclear facility employee, who does not notify his supervisor or the regulatory body of the event or condition

which may cause a threat to nuclear safety or radiological protection.

Article 124

1. Financial penalties referred to in Article 123, in the form of an administrative decision, shall be imposed by:
 - 1) the Chief Nuclear Regulatory Inspector – in the cases when the Agency's President issues the licence for, or receives the notification of, the practice,
 - 2) the regional sanitary inspector or military inspector – in the cases when the licence is issued by those bodies.
2. Decisions referred to in paragraph 1 shall be executed immediately.

Article 125

1. Fines shall not be imposed after a lapse of 5 years since the perpetration of the offence.
2. Fines shall not be collected after a lapse of 5 years since the time of the final decision to impose the fine.

Article 126

1. Penalties imposed on the basis of Article 123, together with the default interest, shall be collected according to the procedure established in the regulations on the administrative execution proceedings.
2. Revenue obtained from fines shall constitute income for the national budget.

Article 127

Persons who do not respect the:

- 1) order for temporary relocation,
 - 2) order on sheltering indoors,
 - 3) ban on cattle grazing on contaminated area or the ban on feeding contaminated feeding stuffs to domestic animals
- shall be subject to imposition of a fine or arrest.

Chapter 16

Transitional, adaptive and final provisions

Article 132

The Minister of Defence with regard to the organisational entities under his authority, and the minister competent for internal affairs with regards to the General Police, National Fire Service, National Border Guard and other subordinated organisation-

al units, after consulting the Agency's President, shall establish implementation procedures for this Act by regulations.

Article 133

1. The Chief Nuclear Regulatory Inspector and regulatory inspectors who have been appointed or authorised before the date of entry into force of this Act, shall become respectively the Chief Nuclear Regulatory Inspector and regulatory inspectors within the meaning of this Act.
2. Licences issued according to the act referred to in Article 138 shall be valid for the time established in the licence.
3. Authorisations obtained according to the provisions of Article 33(3)(1) and 33(4) of the act referred to in Article 138, shall be valid for the time established in the authorisation.
4. Licences concerning radioactive substances purchase and use, issued according to the regulations valid before the act referred to in Article 138 entered into force, and in particular those issued according to the:
 - 1) Council of Ministers regulation of 18 June 1968 on safety and hygiene in work involving ionising radiation applications (Official Journal No 20, Item 122);
 - 2) Council of Ministers resolution No 266/64 of 29 August 1964 on radioactive substances use;
 - 3) Regulation No 23/70 of 21 July 1970 by the Government Plenipotentiary for Nuclear Energy Uses on radioactive materials purchase and applications
– shall be valid until their replacement by licences issued according to the provisions of this Act, but not longer than for 24 months as from the date of its entry into force.
5. The National Radioactive Waste Repository in Rózan, established according to the regulations based on the provisions of the act referred to in Article 138, shall be recognized as the National Radioactive Repository Facility within the meaning of this Act.
6. Proceedings which have been started before the date of this Act entry into force shall be continued and concluded in accordance with previous regulations.

Appendix IV. Law of 22 June 2001 on the implementation of the Convention on the prohibition of the development, production, stockpiling and use

of chemical weapons and on their destruction (Journal of Laws of the Republic of Poland of 2001, No. 76, item 812)

Chapter 1.

General provisions

Art. 1. This Law determines the principles of the implementation in the territory of the Republic of Poland of the obligations resulting from the Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, done at Paris on 13 January 1993 (Journal of Laws of 1999, No. 63, item 703), hereinafter referred to as "the Convention".

Art. 2. 1. The provisions of this Law shall apply to the natural persons in the territory of the Republic of Poland, legal persons and organisational units without legal personality and other entities with place of business in the territory of the Republic of Poland, as well as foreign entrepreneurs carrying out in the territory of the Republic of Poland the activity with chemicals and their precursors, covered by the Convention.

2. The territory of the Republic of Poland shall also include aircraft and vessels as well as other navigating units, of the Polish nationality.

Art. 3. 1. Whenever this Law refers to the "chemical weapons", "toxic chemicals", "discrete organic chemicals", "precursors", "riot control agents", "chemical weapons production facilities" as well as "purposes not prohibited under the Convention", these terms shall have the meaning used by the Convention.

2. The term "escorting team" shall mean "in-country escort" in the meaning of the Convention.

Chapter 2.

Prohibitions and restrictions

Art. 4. It is prohibited in the territory of the Republic of Poland, subject to Art. 5:

- 1) development, production, manufacturing, processing, consumption or otherwise acquiring, collecting, stockpiling, sale or transfer to anyone of chemical weapons,
- 2) use of chemical weapons,
- 3) engaging in any military preparations to use chemical weapons,

- 4) use of riot control agents as a method of warfare,
- 5) abetting or assistance in engaging in the activity prohibited under subparas 1–4 above.

Art. 5. The production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors, mentioned in Schedule 1 of the Annex of Chemicals to the Convention, hereinafter referred to as "the Schedule 1", may be carried out only for the purposes not prohibited under the Convention and in the amounts allowed therein and in accordance with its requirements.

Art. 6. 1. The production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1 may be carried out on the basis of a permit.

2. The permit referred to in para. 1 shall be issued by the minister for economy, subject to para. 3.
3. The permits referred to in para. 1, for the organisational units and cells subjected to the Minister for National Defence and supervised by it, as well as for state-owned enterprises, for which it is founding organ, shall be issued by the Minister for National Defence.

Art. 7. 1. The permit for production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors, mentioned in the Schedule 1 is independent of the entry to the record of entrepreneurs as well as of the concession and permission, referred to in the provisions related to the business activity.

2. Granting, refusal to grant, modification and withdrawal of permit or limitation of the scope thereof in relation with the application shall be effected through administrative decision.
3. The permit shall be granted for a limited period of time, not shorter than 2 years and not longer than 50 years.
4. To granting, refusal to grant, modification and withdrawal of permit or limitation of the scope thereof in relation with the application the provisions of Art. 16, Art. 17 paras. 1 and 2, Art. 18, Art. 20, Art. 21 paras. 1–5, Art. 22, Art. 23 and Art. 26 of the Law of 19 November 1999 – Law on Business Activity (Journal of Laws No. 101, item 1178, of 2000, No. 86, item 958, No. 114, item 1193 and of 2001 No. 49, item 509) shall apply accordingly.

Art. 8. The minister for economy shall determine through regulation the procedure of issuing of permits for the production, manufacturing, processing, consumption, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1. The said regulation shall determine in particular:

- 1) the specimen of applications to issue permit for production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1,
- 2) documents to be attached to the applications, referred to in subpara. 1,
- 3) specimen of permit for production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1.

Art. 9. 1. The Minister for National Defence shall determine through regulation the scope and detailed conditions of production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1 in the organisational units and cells subjected to or supervised by it as well as in the state-owned enterprises for which it is founding organ. The regulation shall determined in particular:

- 1) manner of preparation of the applications for permit to carry out the activity referred to in Art. 6 as well as the documents to be attached to the applications,
 - 2) organisational units authorised to produce toxic chemicals or their precursors for protective purposes,
 - 3) conditions of production of toxic chemicals or their precursors for research, medical or pharmaceutical purposes,
 - 4) procedures and periods of transfer of information connected with the production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors mentioned in the Schedule 1,
 - 5) conditions of training of military forces related to the use of toxic chemicals.
2. The Minister for National Defence shall transfer to the minister for economy the copies of the issued permits for production, manufacturing, processing, acquiring, collecting, storage, sale, transfer or use of toxic chemicals or their precursors in the organisational units and cells referred to in para. 1.

Chapter 3.

External trade in toxic chemicals and their precursors

Art. 10. 1. The importation, exportation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 1 is allowed, subject to permission, and furthermore subject to Art. 11. The permission for importation, exportation and transit referred to in para. 1 shall be issued by the minister for economy in accordance with the principles and in the manner determined in the Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and amending certain laws (Journal of Laws No. 119, item 1250).

Art. 11. 1. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 1, to and from the States, which are not party to the Convention is prohibited.

2. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 1, to and from the States – Parties to the Convention is allowed only for the purposes not prohibited under the Convention and in the amounts allowed therein and in accordance with its requirements.

Art. 12. 1. The exportation, importation and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 2 of the Annex of Chemicals to the Convention, hereinafter referred to as "the Schedule 2" is allowed only to and from States – Parties to the Convention.

2. Export, import and transit through the Polish customs area of toxic chemicals and their precursors mentioned in the Schedule 3 of the Annex of Chemicals to the Convention, hereinafter referred to as "the Schedule 3" is allowed only to and from States – Parties to the Convention, subject to para. 3.

3. Export, import and transit through the Polish customs area of toxic chemicals and their precursors, mentioned in the Schedule 3 from the States – Parties to the Convention is allowed to and from States, which are not party to the Convention, provided that in case of the exportation and transit to these States, such exportation and transit

shall be subject to the delivery of end user declaration, issued by competent authorities of the said States. The declaration referred to in para. 3 shall contain the data determined in the Art. 23. 4 of the Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for the keeping of international peace and security and amending certain laws.

Chapter 4.

Declarations and their verification

Art. 13. 1. The minister for economy shall maintain the national system of collection and processing of data connected with the activity covered by the Convention and shall prepare draft declarations required by the Convention.

2. The minister for economy shall transmit draft declarations referred to in para. 1 to the minister for foreign affairs.

Art. 14. 1. The entities and entrepreneurs, referred to in Art. 2, carrying out the activity with toxic chemicals and their precursors, covered by the provisions of the Convention shall transmit to the minister for economy, the information on that activity connected with:

- 1) production, manufacturing, consumption, processing, acquiring, collecting, storage, sale, transfer and use of chemicals mentioned in the Schedule 1, taking into account the provisions of Part VI of the Annex on implementation and verification to the Convention,
- 2) production, consumption, processing or trade in chemicals mentioned in the Schedule 2, taking into account the provisions of Part VII of the Annex on implementation and verification to the Convention,
- 3) production or trade in chemicals mentioned in the Schedule 2, taking into account the provisions of Part VIII of the Annex on implementation and verification to the Convention,
- 4) production of discrete organic chemicals not mentioned in the Schedule 1, Schedule 2 and Schedule 3, taking into account the provisions of Part IX of the Annex on implementation and verification to the Convention,
- 5) external trade in toxic chemicals and their precursors mentioned in the Schedule 1, Schedule 2 and Schedule 3,
- 6) possessing of riot control agents.

2. The entities and entrepreneurs referred to in Art. 2 shall transmit every year the information referred to in para. 1, within the following periods:
 - 1) before 30 September – in case of the information, which relates to the activity planned in the following calendar year,
 - 2) before 28 February – in case of the information, which relates to the activity carried out in the preceding calendar year.
3. The information referred to in para. 1 shall be true, reliable and full as well as shall meet the requirements determined in the Convention.
4. The minister for economy, in consultation with the minister for foreign affairs and Minister for National Defence shall determine through regulation the detailed data, which should be included by the information referred to in para. 1. The regulation shall determine in particular:
 - 1) the specimen of declarations, which should contain the information on the activity with chemicals and their precursors covered by the provisions of the Convention,
 - 2) procedure and periods of transmission of information for the purposes of the preparation of the declarations.

Art. 15. 1. The information referred to in Art. 14 paras. 1–3 shall be subject to verification.

2. The minister for economy shall be the organ competent for the verification referred to in para. 1, except the organisational units and cells subjected to the Minister for National Defence and supervised by it, as well as state-owned enterprises, for which it is founding organ.
3. The verification referred to in para. 1, in the organisational units and cells subjected to the Minister for National Defence and supervised by it, as well as in the state-owned enterprises for which it is founding organ, shall be carried out by the Minister for National Defence.

To the verification referred to in para. 1 the provisions of the Law of 28 September 1991 on treasury control (Journal of Laws of 1999, No. 54, item 572, No. 83, item 931, of 2000 No. 70, item 816, No. 104, item 1103, No. 116, item 1216 as well as of 2001 No. 14, item 143) concerning control proceedings as well as the provisions of Art. 29–31 of the Law of 29 November 2000 on external trade in goods, technologies and services of strategic importance both for state security and for keeping of international peace and security, shall apply accordingly.

Chapter 5.

Inspection activity

Art. 16. The inspection team, within its tasks determined in the Annex on implementation and verification to the Convention shall be entitled to:

- 1) enter the premises of each facility in the territory of the Republic of Poland in relation with which:
 - a) the information or declaration was submitted in connection with the activity carried out in accordance with Art. VI of the Convention,
 - b) challenge inspection was requested in accordance with Art. IX para. 8 of the Convention,
 - c) an investigation has been initiated in accordance with Art. X para. 9 of the Convention,
- 2) carry out other inspection activity, in accordance with the Convention,
- 3) use equipment authorised in accordance with the Convention, including installation of equipment used for permanent monitoring of the facilities,
- 4) interview the owner of the controlled facility or his/her representative,
- 5) review documents and records,
- 6) take samples for analysis.

Art. 17. 1. The inspection team shall be accompanied by escorting team, designated by the minister competent for the controlled facility, in consultation with the minister for foreign affairs.

2. The members of the escorting team shall have the same rights as the members of the inspection team referred to in Art. 16.

Art. 18. 1. During the inspection the controlled entities and entrepreneurs, referred to in Art. 2 above, shall in relation with the inspection team and the escorting team:

- 1) make available the facilities and plants, in which the activity is carried out with chemicals and their precursors covered by the provisions of the Convention,
- 2) be present during the inspection,
- 3) provide with relevant information and facilitate insight into the documents and records within the scope of control,
- 4) make copies of requested documents and records,
- 5) take samples or co-operate in taking of samples,
- 6) facilitate to the inspection team the use of com-

- munications services as well as, if possible, other equipment in the controlled facility,
- 7) ensure appropriate working conditions, including individual premises and places for storage of documents.
2. During the inspection the provisions of Art. 17 para. 2, 3 and 5 of the Law of 28 September 1991 on treasury control shall apply accordingly.

Art. 19. During the inspection the controlled entities and entrepreneurs, referred to in Art. 2 above shall be entitled to:

- 1) participate in the works of the escorting team,
- 2) submit explanations and formulate reservations during the inspections,
- 3) be acquainted with findings of the inspection and collected documentation,
- 4) receive the report of the inspection and formulate observations thereto,
- 5) participate in de-briefing meetings of the inspection and formulate observations.

Art. 20. 1. The costs connected with the inspection shall be borne from the funds of the state budget, which shall be planned by appropriate ministers regarding their respective parts of the budget.

2. The ministers competent for the inspections shall submit to the minister for foreign affairs the application for the compensation of the incurred costs, which shall be transmitted to the Organisation for the Prohibition of Chemical Weapons, hereinafter referred to as "the Organisation".

Art. 21. The Council of Ministers shall determine through regulation the detailed procedure for the receipt of inspections of the Organisation in the territory of the Republic of Poland. The regulation shall determine in particular:

- 1) procedure of notification on the inspection,
- 2) composition of the escorting team,
- 3) obligations of the minister competent for inspected facility, related to:
 - a) notification of competent authorities as well as owner of the facility on planned inspection,
 - b) preparation of the inspection,
 - c) assurance to the inspection team and escorting team of access to the facility covered by the inspection, transportation to and from the inspection site, accommodation, working premises, translations, use of communication services as well as medical care,

- d) assurance that the inspection is carried out in accordance with the procedures set forth in the Convention,
- 4) manner of coverage of inspection costs as well as procedure of application to the Organisation for the compensation of incurred costs.

Chapter 6.

Protection of information

Art. 22. 1. The information obtained in connection with the implementation of the Convention, marked with the clause "OPCW restricted" shall be protected and made available in accordance with the principles determined in the law of 22 January 1999 on the protection of secret information (Journal of Laws No. 11, item 95, of 2000 No. 12, item 136, No. 39, item 162 and of 2001 No. 22, item 247 and No. 27, item 298) related to the secret information marked with the clause "restricted".

2. The information obtained in connection with the implementation of the Convention, marked with the clause "OPCW protected" shall be protected and made available in accordance with the principles determined in the law referred to in para. 1, related to the secret information marked with the clause "confidential".

3. The information obtained in connection with the implementation of the Convention, marked with the clause "OPCW highly protected" shall be protected and made available in accordance with the principles determined in the law referred to in para. 1, related to the secret information marked with the clause "secret".

4. The information obtained from the entities and entrepreneurs, referred to in Art. 2 above, in connection with the obligation referred to in Art. 14, and marked with appropriate clauses shall be protected and made available in accordance with the principles determined in the law referred to in para.1, accordingly to the clause attributed to it.

Chapter 7.

Competencies of the organs of public administration

Art. 23. 1. The functions of the National Authority referred to in the Convention shall be carried out by the minister for foreign affairs.

2. The tasks of the minister for foreign affairs, as National Authority, shall include:

- 1) preparation and realisation of the assumptions

of the policy of the Republic of Poland in relation with the Organisation,

- 2) contacts with the Organisation and with other States – Parties to the Convention within the issues connected with the implementation of its provisions,
- 3) co-participation in the receipt of inspections of the Organisation in the territory of the Republic of Poland,
- 4) co-ordination of actions undertaken in the territory of the Republic of Poland in connection with the implementation of the obligations resulting from the Convention,
- 5) provision to the States – Parties to the Convention, in consultation with the Minister for National Defence, through the Organisation, of assistance in case of threat of use or use against them of chemical weapons, in accordance with the provisions of the Convention.

Art. 24. 1. Minister for economy shall supervise the activity connected with the implementation of the provisions of the Convention in the territory of the Republic of Poland.

2. When supervising the activity referred to in para.

1 the minister for economy shall:

- 1) maintain national system of collection and processing of data resulting from the activity referred to in Art. 5–12, as well as shall prepare draft declarations required by the Convention and shall transmit them to the minister for foreign affairs,
- 2) monitor the activity of entities and entrepreneurs referred to in Art. 2 above, in the sphere of the implementation of the Convention in the Republic of Poland, except the organisational units and cells subjected to the Minister for National Defence and supervised by it as well as state-owned enterprises for which it is founding organ; in particular it shall ensure the monitoring of external trade in toxic chemicals and their precursors, mentioned in the Schedule 1, Schedule 2 and Schedule 3,
- 3) ensure, in co-operation with the Minister for National Defence the possibility of chemical analyses connected with the implementation of the Convention,
- 4) carry out, in co-operation with the minister for foreign affairs, Minister for National Defence and minister for interior the activity connected with the preparation, receipt and realisation of

inspections of the Organisation in the territory of the Republic of Poland, except the organisational units and cells subjected to the Minister for National Defence and supervised by it as well as state-owned enterprises for which it is founding organ, as well as the organs and organisational units subjected to and supervised by the minister for interior.

Art. 25. 1. The Minister for National Defence shall ensure the implementation of the Convention by the organisational units and cells subjected to and supervised by it as well as state-owned enterprises for which it is founding organ, through:

- 1) monitoring of the implementation of the Convention,
- 2) assurance, in co-operation with the minister for economy, of possibility of chemical analyses connected with the implementation of the Convention,
- 3) in co-operation with the minister for foreign affairs, minister for economy and minister for interior – the activity connected with the preparation, receipt and carrying out of the inspections of the Organisation.

2. The Minister for National Defence may designate, upon request of the minister for foreign affairs, within possessed forces and assets destined for the protection against the chemical weapons, the part thereof in order to provide, through the Organisation, other States – Parties to the Convention, with the assistance in case of threat of use or use against them of chemical weapons.

Art. 26. 1. The minister for interior shall monitor the implementation of the Convention in the organs and organisational units subjected to or supervised by it, as well as shall determine the tasks of the said organs and units to this end.

2. The minister for interior shall ensure:

- 1) border control of inspection teams in accordance with the principles applied to the members of diplomatic personnel in designated border crossing points,
- 2) security to the members of the inspection teams during their stay in the territory of the Republic of Poland and during their transit,
- 3) in co-operation with the minister for foreign affairs and minister for economy – the activity connected with the preparation, receipt and carrying out of inspections of the Organisation

in the organisational units subjected to and supervised by it.

Chapter 8. Penal sanctions

Art. 27. A person who uses riot control agents as a method of warfare, shall be sentenced to imprisonment for 1 year up to 10 years.

Art. 28. 1. A person who, without required permit or in contravention of its conditions, for the purposes not prohibited under the Convention, produces, manufactures, processes, acquires, collects, stores, sells, transfers, uses or possesses toxic chemicals or their precursors mentioned in the Schedule 1, shall be sentenced to fine, limitation of freedom or imprisonment for 3 months up to 5 years.

2. The same penalty shall be applicable to a person who transfers the toxic chemicals or their precursors mentioned in the Schedule 1 to unauthorised person.

Art. 29. A person, who without required permit or in contravention of its conditions, effects external trade in toxic chemicals or their precursors, mentioned in the Schedule 1, shall be sentenced to fine, limitation of freedom or imprisonment for 3 months up to 5 years.

Art. 30. 1. A person who fails to meet the obligation to inform authorised organ or transmits false information on the activity connected with toxic chemicals or their precursors, covered by the Convention, shall be sentenced to fine, limitation of freedom or imprisonment for 3 months up to 5 years.

2. The perpetrator of the act referred to in para. 1 acting unintentionally, shall be sentenced to fine, limitation of freedom or imprisonment for up to 1 year.

Art. 31. A person who refuses the access to the inspection team or escorting team to the controlled facility, submits false information to the members of the said teams or otherwise impedes or hinders the inspection, shall be sentenced to fine, limitation of freedom or imprisonment for up to 3 years.

Art. 32. 1. In case of sentence for the crime determined in Art. 27–29 the court may rule the seizure of goods, technologies and other objects used in or destined for the commitment of crime or obtained directly or indirectly.

2 This Law does not repeat the sanctions contained in the Penal Code of the Republic of Poland, which relate to the weapons of mass destruction.

Chapter 9.

Transitional and final provisions

Art. 33. The entities and entrepreneurs carrying out on the day of the entry into force of this Law the activity without permit, referred to in Art. 6 para. 1 may within 30 days as from the entry into force of this Law apply to the competent organ for the issuance of required permit.

Art. 34. This Law shall enter into force after 3 months as from its publication (The Law entered into force on 26 October 2001).

Appendix V. The Internal Security Agency and Foreign Intelligence Agency Act of 24 May 2002 – Excerpts

Article 5

1. The tasks of the ABW shall include:

- 1) recognising, preventing and fighting threats aimed against the internal security of the state and against its constitutional order, and especially against its sovereignty and international position, independence and inviolability of its territory and against its defence system,
- 2) recognising, preventing and exposing:
 - a) crimes of espionage, terrorism, breach of the state secret and other crimes aimed against the state's security,
 - b) crimes of production and trade in goods, technologies and services of strategic importance to the state's security,
 - c) crimes of illegal production, possession and trade in weapons, ammunition and explosive materials, weapons of mass-destruction, stupefacients and psychotropic substances in international trade, and prosecuting the perpetrators of these crimes,

Chapter 4

The Powers of the Officers of the Internal Security Agency and of Foreign Intelligence Agency

Article 21

1. Within the scope of the tasks referred to in Article 5 paragraph 1, the ABW officers shall perform:

- 1) intelligence and investigative activities in order to recognise, prevent and expose crimes and to prosecute their perpetrators,
- 2) intelligence and analytic – informative activities in order to acquire and process information vital to the protection of state security and its constitutional order.
2. The ABW shall also perform the tasks commissioned by the court or prosecutor to the extent defined in the Penal Code.
3. The ABW officers shall perform their activities only within the competence of this Agency and within this competence they are entitled to the prosecutorial powers of the Police, resulting from the Penal Code.

Article 23

1. The officers of the ABW, while performing the activities referred to in Article 21, shall have the power to:
 - 1) order a particular behaviour,
 - 2) check identity documents in order to ascertain the identity of persons,
 - 3) detain people in the course and in the cases defined in the regulations of the Penal Code,
 - 4) search people and premises in the course and in the cases defined in the regulations of the Penal Code,
 - 5) make body or baggage search and also check the cargo of land, air, and water transport vehicles – in case of justified suspicion that a punishable wrong act has been committed,
 - 6) observe and record, with the use of technical devices, the vision and accompanying sound of events that take place in public places,
 - 7) demand necessary help from state institutions, government administration organs, organs of local authorities and entrepreneurs in the sector of public utilities; the above mentioned institutions, organs and entrepreneurs are obliged, within the scope of their activity, to grant this help gratuitously, in accordance with the current legal regulations,
 - 8) ask entrepreneurs, organisational units and social institutions other than the referred to in subparagraph 7 for the necessary help and also, in emergency cases, to ask any person to give immediate assistance, in accordance with the current legal regulations.
2. The person who is detained, searched or whose premises have been searched on the basis of para-

- graph 1 subparagraphs 3 and 4, shall have the rights provided for by the Penal Code.
3. The detention of a person may be applied only when other measures have proved to be aimless and ineffective.
4. The detained person, if it is justified, must immediately undergo medical treatment or must be given the first aid.
5. The activities referred to in paragraph 1 subparagraphs 1–5, should be carried out in a way that would to the least extent violate the personal properties and rights of the person toward whom they were undertaken.
6. The person shall have the right to lodge a complaint with the court or the prosecutor respectively against the way of carrying out the activities referred to in paragraph 1 subparagraphs 2–5.
7. The Council of Ministers shall define, by means of its order, the detailed way of carrying out and documenting the activities referred to in paragraph 1 subparagraphs 2–5, with taking into account they way, adjusted to the circumstances, of performing by the ABW officers the activities undertaken within their statutory powers and the officers' duties while performing these activities.

Article 30

1. In criminal cases referred to in Article 5 paragraph 1, subparagraph 2, in the frames of intelligence activities in order to record such crimes, or to establish the identity of the participants thereof, or to confiscate the objects of crime, the Head of the Internal Security Agency may, prior to the initiation of the criminal procedure, order a secret surveillance of the production, transfer, storage and trade in objects of crime, if this should not endanger human life or freedom.

Appendix VI. Law of 12 October 1990 on the Borders Guard – Excerpts

- Art. 4 item 12 – preventing transportation, without the permit required in accordance with separate regulations, through the state border of waste, harmful chemical substances also nuclear and radioactive materials, as well as polluting border waters;
- Art. 4 item 13 preventing transfers, without the permit required in accordance with separate regulations, through the state border of intoxicants and psychotropic substances, weapons, ammunition and explosive materials;

Appendix VII. Law of 24 July 1999 on Customs Service – Excerpts

Art. 1 item 1. A uniform uniformed Customs Service is created in order to ensure conformance to the law for the import of goods to the European Union customs territory, export of goods from the European Union customs territory as well as performing duties set forth in separate regulations, particularly related to the excise tax.

Art. 1 item. 2. Tasks of the Customs Service include realisation of the nation's customs policy in the part concerning the import and export of goods as well as performing other tasks resulting from separate regulations, specifically:

Art. 1 item 2. 5. identifying, detecting, preventing and combatting crimes and misdemeanors associated with violation of regulations concerning the protection of cultural goods and protection of intellectual property, as well as crimes and misdemeanors associated with bringing goods subject to limitation or prohibitions into the Polish customs territory, in particular such as: hazardous waste, chemical substances, nuclear and radioactive materials, narcotics and psychotropic substances as well as weapons, ammunition, explosives and technologies subject to international control.